

SKIDMORE

C O L L E G E

OFFICIAL

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Name: Sandor, Rachel A. DOB: 05-JAN-XXXX ID: 003278396
 2 Sail Harbour Drive
 Sherman CT 06784

Program: UG Bachelor of Arts
 Award: Bachelor of Arts 22-MAY-2021

Program Start Date: Sep 06, 2017
 Anticipated Completion Date: May 2021
 Status: Completed

Major/GPA(s): History (3.460), Spanish (3.930)
 Minor(s): American Studies
 Advisor(s): Donovan, Mary Kate K.; Day, Jennifer H.
 Honor(s): Cum Laude, Phi Alpha Theta

Rachel Sandor

Fall 2017

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
APSL	AP Spanish-Language		0.00	0.00	0.00	0.000
FS-AP1	Spanish:Lang AP Credit	TR	4.00	4.00	0.00	0.000
EN-110	Intro to Literary Studies	B	4.00	4.00	4.00	12.000
EX-111	Intro to Exer Science	B+	4.00	4.00	4.00	13.320
HI-247P	History of Modern Japan	B+	4.00	4.00	4.00	13.320
SSP-100	Sport, Self and Society	B+	4.00	4.00	4.00	13.320
		Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA		20.00	20.00	16.00	51.960	3.248
CUM GPA		20.00	20.00	16.00	51.960	3.248

Spring 2018

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
AR-133	Draw ing	B+	4.00	4.00	4.00	13.320
EX-119	Sport and Social Issues	B+	3.00	3.00	3.00	9.990
HI-344P	China's Last Empire	B+	4.00	4.00	4.00	13.320
PL-101	Intro to American Politics	A	3.00	3.00	3.00	12.000
		Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA		14.00	14.00	14.00	48.630	3.474
CUM GPA		34.00	34.00	30.00	100.590	3.353

Fall 2018

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
AM-101W	Civil War in American Memory	A-	4.00	4.00	4.00	14.680
HI-142	Intro to Modern China	A-	3.00	3.00	3.00	11.010
HI-151	Tw o World Wars	B+	3.00	3.00	3.00	9.990
HI-275	Intro to the History Major	A	1.00	1.00	1.00	4.000
WLS-206	Communicating in Spanish I	A-	3.00	3.00	3.00	11.010
		Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA		14.00	14.00	14.00	50.690	3.621
CUM GPA		48.00	48.00	44.00	151.280	3.438

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TRANSCRIPT KEY

ACCREDITATION

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RELEASE OF INFORMATION

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COURSE NUMBERING

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- 100** - Introductory
- 200** - Intermediate
- 300** - Advanced

GRADES

Distinguished Work: A+, A (4.00) / Superior Work: A- (3.67), B+ (3.33), B (3.00) / Satisfactory Work: B- (2.67), C+ (2.33), C (2.00), S (no points) / Passing, Poor Quality: C- (1.67), D+ (1.33), D (1.00) / Unsatisfactory: U (no points) / for spring 2020 to summer 2021(COVID-19) - Credit: CR (no points) / Failure: F (0.00) / Withdrawal: W / Withdrawal Failing: WF (0.00) / Temporary Incomplete: I (no points) / Incomplete Failing: IF (0.00) / Pass: P (no points) / Pass w/Honor: PH (no points) / Audit: AU (no points) / Audit Withdrawal: AW (no points) / Non-Credit: NC (no points) Leave of Absence: L (no points) / Transfer Credit: TR / Transfer Maturity Level Credit: ML

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HONORS

Dean's List: Term honors are computed for the fall and spring semesters as of the established date for submitting grades. Honors are awarded to each student who satisfactorily completes fourteen semester hours and earns the appropriate grade point average. Effective Fall 2011: Term Honors--3.650 or higher; Fall 1998-Spring 2011: Honors--3.400-3.669 and Highest Honors--3.670-4.000; Prior to Fall 1998: Honors--3.33 or higher.

Graduation Honors: Upon recommendation of the Committee on Academic Standing and with the approval of the faculty, seniors with distinguished academic records may graduate with honors upon earning the following grade point averages-effective with the Class of 2014: cum laude (3.650-3.749); magna cum laude (3.750-3.899); summa cum laude (3.900-4.000); Class of 1991-Class of 2013: cum laude (3.400-3.669); magna cum laude (3.670-3.799); summa cum laude (3.800-4.000); prior to May 1991, College Honors (3.67-4.00).

REPEATED COURSES

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SATISFACTORY/UNSATISFACTORY

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TRANSCRIPT NOTATIONS

Status Notations

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- Disciplinary Clery Violation: Student expelled after a finding of responsibility for a code of conduct violation.

Term Notations

- Academic Probation: Semester of cumulative GPA below 2.000
- Disciplinary Clery Violation: Student suspended for the semester after finding of responsibility for a code of conduct violation.

IN GOOD STANDING AND ENTITLED TO HONORABLE DISMISSAL UNLESS OTHERWISE INDICATED


David J. DeConno, Registrar

OFFICE OF THE REGISTRAR

4/11/2023

SARATOGA SPRINGS NEW YORK 12866-1632 PHONE 518-580-5710 FAX 518-580-5749

SKIDMORE

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Name: Sandor , Rachel A.

ID: 003278396

Spring 2019

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
AM-221	Methods and Approaches	A-	4.00	4.00	4.00	14.680
HI-126	Revolution to Civil War	A-	3.00	3.00	3.00	11.010
HI-351D	East Asia and the West	B	4.00	4.00	4.00	12.000
WLS-208	Communicating in Spanish II	A-	4.00	4.00	4.00	14.680

	Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA	15.00	15.00	15.00	52.370	3.491
CUM GPA	63.00	63.00	59.00	203.650	3.452

Fall 2019**Skidmore in Spain**

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
JMLS-351	Adv Language Studies	A	4.00	4.00	4.00	16.000
JMLS-363	Gender and Memory	A	4.00	4.00	4.00	16.000
JMLS-363B	Discovering the Prado Museum	A	4.00	4.00	4.00	16.000
JMLS-363B	In Women's Words	A	4.00	4.00	4.00	16.000

Term Honors

	Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA	16.00	16.00	16.00	64.000	4.000
CUM GPA	79.00	79.00	75.00	267.650	3.569

Spring 2020 (COVID-19)

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
AM-368	The 1960s	A	4.00	4.00	4.00	16.000
HI-125	American Colonial History	A-	3.00	3.00	3.00	11.010
PH-207	Introduction to Logic	A	4.00	4.00	4.00	16.000
WLS-363	Genero	A	3.00	3.00	3.00	12.000

Term Honors

	Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA	14.00	14.00	14.00	55.010	3.929
CUM GPA	93.00	93.00	89.00	322.660	3.625

Summer 2020

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
Univ Connecticut						
HIST 3554	Immigrants/Shaping Amer Hist		0.00	0.00	0.00	0.000
HI-351C	Topics in History	ML	3.00	3.00	0.00	0.000

	Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA	3.00	3.00	0.00	0.000	0.000
CUM GPA	96.00	96.00	89.00	322.660	3.625

Fall 2020

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
AM-264	African-American Experience	A	3.00	3.00	3.00	12.000
HI-326P	Manhood in America	A-	4.00	4.00	4.00	14.680
WLS-376	Imaginación/Conocimiento	A	3.00	3.00	3.00	12.000

	Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA	10.00	10.00	10.00	38.680	3.868
CUM GPA	106.00	106.00	99.00	361.340	3.650

January 2021

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
Univ Connecticut						
HIST 2210E	History of the Ocean		0.00	0.00	0.00	0.000
GN-ELA	General Lib Arts Elect	TR	3.00	3.00	0.00	0.000

	Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA	3.00	3.00	0.00	0.000	0.000
CUM GPA	109.00	109.00	99.00	361.340	3.650

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Spring 2021

Course	Title	Gr	Attmp	Earn	GPA CP	GPA QP
AM-356	Sports Cinema	A	4.00	4.00	4.00	16.000
AM-371C	Ind Study Amer Studies	A	3.00	3.00	3.00	12.000
WLS-211	Spanish Literature and Culture	A	4.00	4.00	4.00	16.000
		Cr Attmp	Cr Earn	GPA CP	GPA QP	GPA
Term GPA		11.00	11.00	11.00	44.000	4.000
CUM GPA		120.00	120.00	110.00	405.340	3.685



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SARATOGA SPRINGS NEW YORK 12866-1632 PHONE 518-580-5710 FAX 518-580-5749

June 07, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill:

Re: Letter of Recommendation for Rachel Sandor

I write to express my enthusiastic support for Rachel Sandor's candidacy for a clerkship. I believe Rachel's integrity, intelligence, warmth, and work ethic would be true assets to your chambers.

I first met Rachel in August of 2022, when she enrolled in the UConn Law School's Asylum and Human Rights Clinic, an intensive course of study and practice that I co-teach with Professor Jon Bauer. At nine credits for the first semester of enrollment, the Clinic is the most demanding experiential program that the Law School offers.

During their first semester in the Clinic, the students attend a three-hour weekly seminar, at which we cover asylum law in breadth and depth, through reflections on judicial opinions, academic articles, and ethical dilemmas, as well as through simulations, case-round discussions, and moot runs of key components of the students' case preparation. The workload for the seminar component of the course is substantial, and the out-of-class assignments include not only a heavy reading load, but also preparation for in-class simulations, and engagement with the work of other clinical teams.

The most time-consuming and labor-intensive component of the Clinic is, however, the direct client representation. At the outset of their first semester in the Clinic, the participating law students are thrust into the responsibilities and rewards of direct representation, as they are matched up with clients for whom they, in partnership with a law student colleague, will be the principal advocate, under the close supervision of their faculty advisor. They are entrusted with all elements of building an asylum case for their clients, and generally spend around 30 hours per week on the case work alone. The work the students conduct throughout the semester includes meeting with their clients on a weekly basis, in order to develop rapport and elicit the asylum applicants' complex and often profoundly traumatic narrative histories; efficiently yet carefully drafting asylum applications, often under considerable time pressure; conducting empirical research into the political and social conditions in their clients' countries of origin and legal research to map those histories onto viable asylum claims; conceptualizing and developing a compelling theory of the case; identifying and collecting evidence; communicating with potential expert and lay witnesses; and drafting and repeatedly revising affidavits, annotated indexes of exhibits, and legal briefs in support of their clients' asylum claims. Toward the end of the case, the students' attention typically shifts toward preparation for the adjudicative hearing—either an affirmative asylum interview or a defensive removal hearing. At this stage, the work entails finalizing briefs, assembling evidence packets, drafting closing statements, preparing their clients and themselves for the hearing through multiple extensive moot sessions, and finally, representing their clients at the hearing. Students in the Clinic work closely with their clinical supervisors, with whom they meet in weekly supervision sessions devoted to the progress of each team's case, as well as in additionally scheduled sessions, in conjunction with needs that arise in the case. In the course of all this activity, we get to know our students extraordinarily well.

Under my supervision, Rachel and her case team partner electively took on the representation of a brother and sister who had been airlifted out of Afghanistan just after the fall of that country to the Taliban, and who had spent numerous intervening months in refugee camps abroad, before finally being paroled into the United States. Due to the substantial backlog impacting the processing of asylum applications, a number of our Clinic teams have ended up with a protracted period of time in which to prepare their legal briefs and evidentiary filings, after having filed their clients' initial asylum applications. Because Afghan citizens paroled into the country are statutorily assured of being granted an asylum interview within 45 days of filing an asylum application, however, Rachel enjoyed no such buffer. Rather, in a display of commitment that somewhat resembled sprinting a marathon, she doggedly and capably navigated the weeks between signing the representation agreements with her clients in mid-September and skillfully representing them at their asylum hearings in mid-December. Moreover, because a person cannot derive asylum from a grant of asylum to a sibling, Rachel's team was faced with developing two overlapping and yet independent cases and demonstrating the eligibility of each on the merits. Since the female sibling had a more direct claim, as an independent woman flouting the Taliban's draconian and misogynistic distortions of Islamic law, Rachel's team astutely conceptualized a case theory for the male sibling's claim focused in large part on the risk of persecution courted through his refusal to take any action to repress his sister. Each sibling's case had to be filed separately, with its own asylum application, brief, and evidence packet, and each sibling had to be interviewed by the asylum officer individually, and thoroughly prepared for their own interview. These overlapping yet independent cases required focused and nuanced legal research and writing in order to develop a line of argumentation that achieved the requisite measure of both intertwining and disentangling. Our Clinic is still waiting for word from the asylum office of the results of this extraordinary advocacy, but no one could have worked harder to deliver a positive result than Rachel did, and the outstanding fruits of her labors give me strong reason to anticipate a happy outcome.

It would have been impressive to see Rachel manage this challenging advocacy under any circumstances, but it was even more remarkable given that—as it became clear to me a little too late in the semester—Rachel was shouldering a disproportionate share of the team's workload. Supporting the equitable division of labor is an important pedagogic goal for me, but Rachel assured me that her paramount concern was providing the best possible representation, and that she would not want to imperil the wellbeing of our clients by introducing potentially destabilizing reflection within the team at a critical juncture in the

Diana Blank - diana.blank@uconn.edu - 646-266-5233

representation. She convinced me to hold off on calling for a soul-searching conversation about team dynamics until after our clients had completed their asylum interviews. When we did have that difficult conversation, Rachel expressed herself with clarity and delicacy, summoning the courage to express what she felt had gone wrong, the grace to take responsibility for not having addressed it sooner, and the insight to identify the lessons learned and how she aimed to draw on them to inform her future collaborative work.

The growth I saw in Rachel over the course of the semester is unsurpassed in my seven years of teaching and mentoring law students. When she first came into the Clinic, she was deeply engaged, but quiet and sometimes tentative. By the end of the semester, Rachel's quiet humility remained intact, but it had begun to glimmer with a recognition of the profound worth of her insight, and her voice resonated more deeply with the confidence that such insight warrants. Rachel has become quietly aware of her own mettle, and I believe that awareness will continue to grow and to amplify her contributions.

Jon Bauer and I would have loved to have Rachel continue on in the Clinic beyond the first semester, but her acceptance of a position as Judicial Intern for Judge Bolden precluded her from engaging in experiential practice this semester. Our loss was certainly Judge Bolden's gain, and—I have a distinct sense—Rachel's too. I've spoken with Rachel about her experiences in Judge Bolden's chambers, and it is clear to me that she has undertaken that challenge with her characteristic seriousness of purpose, focused intently on absorbing the perspectives and practices that nurture superlative work. In Judge Bolden's chambers, she has keenly observed what it takes to make a contribution as a federal judicial clerk, and she has compellingly expressed to me her dedication to making that contribution. I hope you will consider giving her the chance to bring that dedication to the work of your chambers.

If there is any further information I might provide, please do not hesitate to contact me on my cell phone, at 646-266-5233, or by email, at diana.blank@uconn.edu.

Sincerely,

Diana Blank, PhD, JD
Visiting Assistant Clinical Professor &
William R. Davis Clinical Teaching Fellow
Asylum and Human Rights Clinic
University of Connecticut School of Law

Diana Blank - diana.blank@uconn.edu - 646-266-5233



SUPREME COURT OF THE STATE OF NEW YORK
1 SOUTH MAIN STREET
NEW CITY, NY 10956
TEL: (845) 483-8274
FAX: (212) 266-9526

HON. CHRISTIE L. D'ALESSIO
Justice of the Supreme Court

George P. Burns, Jr., Esq.
Principal Court Attorney

Debra Trevorah
Secretary

Matthew Homenick
Associate Court Clerk

June 9, 2023

Honorable Stefan R. Underhill
United States District Court, District of Connecticut
Brien McMahon Federal Building
United States Courthouse
915 Lafayette Boulevard, Suite 411
Bridgeport, CT 06604

Re: Application of Rachel Sandor

Dear Judge Underhill:

I write in strong support of Rachel Sandor's application for a judicial clerkship position. Miss Sandor completed an internship with the 9th Judicial District-Westchester County and Supreme Court- during the summer of 2018 and the Dutchess Supreme Court in the summer of 2022 under my supervision. Rachel was a devoted, insightful, thoughtful, and a reliable intern who demonstrated extreme maturity and professionalism. Rachel always arrived early, prepared for the day, motivated to learn and to understand the nature of the court proceedings.

Rachel was always confident and comfortable enough to ask questions about the background of the cases she observed and unhesitant to offer her observations and opinions about legal issues that are debated in chambers. Rachel performed legal research and drafted a lengthy decision on a complex New York State Medicaid reimbursement Article 78 proceeding. It was clear that she had a strong approach to legal research and writing, organized and focused on relevant cases. It was also apparent that Rachel had a real interest in the day-to-day

proceedings in the court, notably, she took a break from research to focus on the weekly mental health court cases. Rachel was so devoted to the program itself and the challenges and progress of the participants that she soon became familiar with the circumstances that she soon became a fixture at our weekly compliance conferences. Rachel acknowledged that she had no prior knowledge of diversion and treatment courts and that participating as an intern motivated her to learn more about mental health, its connection to criminality and substance abuse, and the law. Rachel often discussed how impressed she was by the mental health part since it demonstrated the power of the legal system to improve the lives of mentally ill defendants.

Rachel's love of the courtroom and desire to serve the public encouraged her to participate in the Asylum and Human Rights Clinic University at Connecticut School of Law. Rachel was so excited to share with me the research and skills that she acquired through the clinic particularly since she took pride in representing asylum seekers as their cases became very personal to her. I was gratified to hear Rachel express how incredibly lucky she felt to have had the opportunity to advocate for asylum seekers when preparing their applications, yet another role that Rachel excelled in. It goes without saying that Rachel makes the most out of every assignment, creating mini opportunities in whatever it is she is tasked to do. For example, as an intern, she gladly accompanied the judges on visits to correctional facilities. She appreciated being able to see the conditions of the facilities, to meet the corrections professionals and to hear inmates' perspective. Rachel noted that her visits helped her gain insight into the programs available within the facilities to address root causes of criminal behavior, including mental health and substance abuse.

Aside from her very competent intellectual abilities, it is critical to note that Rachel was one of the most pleasant and professional interns who have worked in the court system. She displayed great character and leadership and was always happy to assist with all aspects of chambers. Rachel's mannerisms were always positive, and she was an absolute pleasure. Rachel expressed her gratitude for the breadth of experience during the internships. As she is pursuing a law career, I give my highest recommendation for the judicial clerkship position.

Very truly yours,

Christie L. D'Alessio

Christie L. D'Alessio, J.S.C.



June 8, 2023

The Honorable Stefan R. Underhill
 United States District Court, District of Connecticut
 915 Lafayette Boulevard, Suite 411
 Bridgeport, Connecticut 06604

Dear Judge Underhill:

I write in enthusiastic support of Rachel Sandor's clerkship application. I first encountered Rachel in her first year of law school, when she took my Employment Discrimination Law course as her spring elective. In her second year, she participated and excelled in the Asylum and Human Rights Clinic, an intensive, 9-credit law school clinical program that I direct. I have also met with Rachel periodically on an informal basis to discuss issues such as course selection and career paths. In all these settings, Rachel has deeply impressed me with her thoughtfulness, intelligence, analytic abilities and writing skills, her diligence and persistence in striving to get things right, her personal warmth and care for clients and colleagues, and her commitment to using her legal skills to advance justice and the public good. She was in the top tier of students in both the classes she took with me, and her performance in law school has been marked by a trajectory of steady growth. Rachel is also deeply interested in the work of the judiciary and has developed many of the skills she will utilize as a clerk through two prior internships with New York trial judges and her recently concluded internship with U.S. District Court Judge Victor Bolden. I am confident that Rachel will make an excellent clerk, and that she'll be a joy to work with.

First year students at UConn Law choose one spring elective from an array of courses that have a statutory/regulatory focus. In the spring 2022 semester, Rachel enrolled in my Employment Discrimination Law course for that elective. Many of the students in the class were second- and third-year law students, but Rachel, from the start, demonstrated an ability to absorb and understand the statutes, regulations, and appellate decisions assigned for class, explain and critique the reasoning of cases, and apply them to complex hypotheticals we took up in class, that was at least on a par with, and often surpassed, the performance of her upper-class classmates. Rachel quickly overcame some initial shyness about volunteering in class and became a regular participant in class discussions. Her responses to questions, and to other students' comments, were invariably thoughtful and well-expressed, and showed that she had carefully read and thought about the material and the issues. On the final exam, which required analysis of two complex fact patterns (one was a Title VII scenario with intersecting same-sex harassment, religious accommodation, and retaliation claims; the other involved systemic claims involving race-based disparate impact and affirmative action), Rachel earned a grade of A minus, which put her in the top 4 of the 24 students in the class (the top 16%). In preparing this letter, I reread her exam answer, and was struck at how clearly written and well-organized (as well as

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Clerkship Recommendation for Rachel Sandor
Professor Jon Bauer
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substantively on target) it was. Each paragraph had a clear point, expressed up front, which she substantiated in the analysis that followed. The shape of the overall analysis and how the paragraphs fit together was always clear. And where there were tenable counterarguments to the approach she took, she generally noted them and offered a convincing response.

Rachel's work in the Asylum and Human Rights Clinic in the fall of 2022 was even more impressive. I co-teach this clinic with Professor Diana Blank, who served as Rachel's primary supervisor in her casework. Professor Blank is also submitting a letter, so I'll leave it to her to go into greater depth on Rachel's work in representing a family of Afghan asylum-seekers. I will focus on aspects of Rachel's casework – and her performance in the weekly seminar that complements the casework in the Clinic – that I had the opportunity to directly observe.

Rachel was responsible for all aspects of representation in a complex asylum case, including extensively interviewing the clients, drafting their asylum application and an extensive package of supporting evidence and legal argument, and representing them at a hearing before the Department of Homeland Security's Asylum Office. (Rachel's casework was done in collaboration with a student teammate, but Rachel handled more than her share of it, and was really the driving force of the team.) Although I was not Rachel's direct supervisor in the case, I did have the opportunity to review much of Rachel's written work, including a comprehensive case plan; an extensive affidavit that set forth the client's life story and why she fears persecution in Afghanistan; and a legal brief explaining why the facts and supporting evidence satisfied each element of an asylum claim. The case plan reflected exhaustive factual and legal research. It insightfully analyzed the strengths and weaknesses of an array of potential arguments and set forth a cogent plan for investigation to gather as much corroborating evidence as possible. The affidavit powerfully conveyed the client's story and strength of character, melding as much as possible of the client's actual words with Rachel's organizational skills, which gave shape and emphasis to the narrative. The legal brief that Rachel drafted was clear and well-organized. It was particularly effective in making clear how the client's fears of persecution for being an artist and an independent woman amount to persecution that is based on several of the protected grounds for asylum, including political opinion and the especially complex "membership in a particular social group" category.

In the weekly Asylum Clinic seminar, Rachel's performance was superb. The seminar involves extensive readings and a range of in-class exercises and discussions on topics that include asylum law, procedure, and policy; lawyering skills; cross-cultural communication; and legal ethics. Many classes take the form of case rounds in which students present difficult issues they are facing in their cases and brainstorm with their classmates ways to approach them. Rachel's preparation, participation, and engagement in the seminar was superb. Her comments in class were always thoughtful and well-expressed, and in case rounds discussions she asked particularly probing questions and offered keen – but tactfully expressed – insights to her classmates. Many students participating in clinics are tempted to treat the casework as the "real" work and underprepare for the seminar component, but Rachel's preparation and engagement with the readings and assignments for the seminar were always evident.

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A couple of anecdotes will help to illustrate Rachel's seriousness of purpose and her deep care for both the Clinic's clients and her colleagues. During the Fall 2022 semester, several of the Clinic's asylum-seeking clients were facing serious struggles in supporting themselves and their families (asylum seekers cannot get work authorization until at least six months pass after they apply for asylum). Rachel came up with the idea of coordinating with an outside group of mental health professionals who wanted to do something concrete to help asylum-seekers. She helped them to organize a project in which they assembled holiday "gift baskets" for our clients, including items that our clients had identified as things they especially needed. In addition to coming up with the idea and bringing to project to fruition, Rachel carefully consulted the Rules of Professional Conduct to ensure that her efforts were consistent with the limitations on lawyer assistance to clients laid out in Rule 1.8(e).

I was also struck by the fact that just after Rachel spent a full day at the Asylum Office in New York City representing her clients at their asylum proceeding, she prepared, the very next morning, a detailed memo with a list of "tips" that she provided to another Clinic team representing a different Afghan client whose hearing was to take place on the following day. Rachel explained what she had learned from her experience at the Asylum Office about the Office's current procedures and expectations, and the particular lines of questioning engaged in by the asylum officer in her case, so that the other students could better prepare for their hearing.

The grade that Rachel received in the Asylum Clinic (A's for both the 4-credit seminar component and the 5-credit fieldwork component) reflected her excellent performance. Although grades in the Asylum Clinic tend to be high because the students are highly motivated to put in extensive and high quality work, Rachel's straight-A grade put her in the top rank of participants that semester; only 5 of the 12 students received a grade of A in both components of the course.

Rachel's other law school activities, including serving as Lead Articles Editor for the Connecticut Journal of International Law, reaching the semi-finals of a moot court competition, and participation in International Refugee Assistance Program, are also a tribute to the diligence, attention to detail, and high skill level that I've seen in her work in Employment Discrimination Law and the Asylum and Human Rights Clinic.

If you have any questions, or need any additional information, please don't hesitate to contact me at (860) 570-5205 or at Jon.Bauer@uconn.edu.

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Sincerely,

A handwritten signature in black ink, appearing to read "Jon Bauer". The signature is fluid and cursive, with the first name "Jon" and last name "Bauer" clearly distinguishable.

Jon Bauer
Clinical Professor of Law and Richard D. Tulisano '69 Scholar in Human Rights
University of Connecticut School of Law

Rachel Sandor

2 Sail Harbour Drive Sherman, CT 06784

(914)844-3907

rachel.sandor@uconn.edu

The following writing sample is a decision on a motion to vacate, set aside, or correct a sentence. I wrote this decision in connection with a Judicial Internship for United States District Judge Victor A. Bolden during the spring of 2023. I have been given permission to use this as a writing sample for my clerkship application.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

WILSON VASQUEZ,
Plaintiff,

v.

UNITED STATES,
Defendant.

No. 3:21-cv-00588 (VAB)

RULING ON PETITION TO VACATE, SET ASIDE, OR CORRECT SENTENCE

Wilson Vasquez (“Petitioner”), currently incarcerated at the Federal Correctional Institution, Fort Dix, and proceeding *pro se*, moved to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Mot. to Vacate, Set Aside, or Correct Sentence, ECF No. 1 (“Mot.”). To date, the Government has not filed a response to Mr. Vasquez’s motion.

For the following reasons, Mr. Vasquez’s motion to vacate, set aside, or correct the sentence is **DENIED**.

I. FACTUAL AND PROCEDURAL BACKGROUND

On September 20, 2016, Mr. Vasquez pled guilty to one Count of a superseding indictment charging him with conspiracy to possess with intent to distribute, 100 grams or more of heroin in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1), 841(b)(1)(B)(i), and 846. Plea Agreement, *Vasquez v. United States*, 3:15-cr-00120-VAB (D. Conn. Sept. 20, 2016), ECF No. 497 (“Plea Agreement”).

Petitioner alleges that before signing the plea agreement, his court-appointed counsel approached him with the plea offer. Def.-Pet.’s Mem. of Law in Supp. of Mot. to Vacate, Set Aside, or Correct Sentence at 5, ECF No. 1-1 (“Mem.”). Defense counsel explained that the offer

provided several favorable stipulations, along with an oral promise by the Government to recommend no more than 120 months, which was a sentence below the Guidelines. *Id.* at 5. Mr. Vasquez subsequently accepted and entered the guilty plea. *Id.* at 6; Plea Agreement.

At sentencing, on June 30, 2017, the Government recommended 151 months of imprisonment, which was at the high end of the range provided by the Sentencing Guidelines. Ultimately, the Court sentenced Mr. Vasquez to a term of imprisonment of 151 months, a four-year term of supervised release, and a special assessment of \$100. J., *United States v. Vasquez*, 315-cr-00120-VAB (D. Conn. June 30, 2017), ECF No. 757.

On August 29, 2018, Mr. Vasquez appealed his sentence on the grounds that his sentence was substantively unreasonable. *United States v. Albarran*, 943 F.3d 106, 110 (2d. Cir. 2019). On appeal, Mr. Vasquez argued that the District Court failed to afford adequate weight to his difficult childhood, the strong familial network that was supporting him at that time, and his low criminal history. *Id.* at 117. The Second Circuit affirmed the District Court’s sentence, identifying no error in the Court’s assessment of the § 3553(a) factors. *Id.*

On July 6, 2020, Mr. Vasquez, appearing *pro se*, moved for compassionate release, under 18 U.S.C. § 3553(a), requesting that the Court “reduc[e] his sentence to time-served and impos[e] a term of Supervised Release with a home detention condition for the remainder of his original term of incarceration[.]” Mot. for Compassionate Release at 1, *United States v. Vasquez*, 3:15-cr-00120-VAB (D. Conn. July 6, 2020), ECF No. 853. Petitioner argued that his “underlying medical conditions, coupled with the fact that he is incarcerated in a prison with a COVID-19 outbreak, place[d] [him] at unreasonable risk of serious illness or death.” *Id.* at 3.

On July 14, 2020, the Government opposed Mr. Vasquez’s motion for compassionate release, arguing that, even if the Court found his health conditions compelling, Mr. Vasquez was

not a suitable candidate for release because he has been a danger to the community. Mem. in Opp'n, *United States v. Vasquez*, 3:15-cr-00120-VAB (D. Conn. July 14, 2020), ECF No. 854.

On July 17, 2020, the Court appointed counsel to Mr. Vasquez to represent him for his motion for compassionate release. Order, *United States v. Vasquez*, 3:15-cr-00120-VAB (D. Conn. July 17, 2020), ECF No. 855.

On August 7, 2020, Mr. Vasquez, with the assistance of counsel, filed a reply arguing that having a BMI over 30, as Mr. Vasquez does, is an extraordinary and compelling reason for a sentence reduction. Reply, *United States v. Vasquez*, 3:15-cr-00120-VAB (D. Conn. Aug. 7, 2020), ECF No. 861.

On August 24, 2020, the Court held a telephonic motion hearing. Min. Entry, *United States v. Vasquez*, 3:15-cr-00120-VAB (D. Conn. Aug. 24, 2020), ECF No. 866.

On September 1, 2020, the Court denied Mr. Vasquez's motion for compassionate release on the grounds that the § 3553(a) factors weighed against Mr. Vasquez's release. Ruling on Mot. for Compassionate Release, *United States v. Vasquez*, 3:15-cr-00120-VAB (D. Conn. September 1, 2020), ECF No. 868.

On April 29, 2021, Mr. Vasquez filed a motion to vacate, set aside, or correct his sentence. Mot. Mr. Vasquez argues that before his plea agreement, he received ineffective assistance of counsel. Mem. at 5–6. Mr. Vasquez also argues that he was deprived due process of law because he did not knowingly or voluntarily sign the plea agreement. Mem. at 8. Lastly, Mr. Vasquez argues that the Government breached the contract between it and Mr. Vasquez. Mem. at 13. To date, the Government has not filed a response.

II. STANDARD OF REVIEW

A federal prisoner challenging a criminal sentence may do so under 28 U.S.C. § 2255 “where the sentence (1) was imposed in violation of the U.S. Constitution or the laws of the United States; or (2) was entered by a court without jurisdiction to impose the sentence; or (3) exceeded the maximum detention authorized by law; or (4) is otherwise subject to collateral attack.” *Adams v. United States*, 372 F.3d 132, 134 (2d Cir. 2004).

Section 2255 provides that a district court should grant a hearing “[u]nless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief.” 28 U.S.C. § 2255(b). District courts, however, may “exercise their common sense,” *Machibroda v. United States*, 368 U.S. 487, 495 (1962), and may draw upon personal knowledge and recollection of the case, *see Blackledge v. Allison*, 431 U.S. 63, 74 n.4 (1997); *United States v. Aiello*, 900 F.2d 528, 534 (2d Cir. 1990). “Thus, a § 2255 petition may be dismissed without a hearing if, after a review of the record, the court determines that the allegations are insufficient as a matter of law.” *Gonzalez-Gonzalez v. United States*, No. 3:14-cv-672 (AWT), 2017 WL 1364580, at *2 (D. Conn. Apr. 13, 2017). “To warrant a hearing on an ineffective assistance of counsel claim, the defendant need establish only that he has a ‘plausible’ claim of ineffective assistance of counsel, not that ‘he will necessarily succeed on the claim.’” *Puglisi v. United States*, 586 F.3d 209, 213 (2d Cir. 2009) (quoting *Armienti v. United States*, 234 F.3d 820, 823 (2d Cir. 2000)).

With *pro se* litigants, this Court must liberally construe their filings to raise the “strongest arguments it suggests.” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (quoting *Pabon v. Wright*, 459 F.3d 241, 248 (2d Cir. 2006)).

III. DISCUSSION

Mr. Vasquez raises several grounds to challenge his sentence. The Court construes Mr. Vasquez to be raising the following constitutional violations: (1) ineffective assistance of counsel with respect to his first court-appointed counsel; (2) deprivation of Due Process based on an unknowing and involuntary plea; and (3) breach of his plea agreement. Mot. at 5–8.

The Court will address each issue in turn.

A. The Ineffective Assistance of Counsel Claim

Mr. Vasquez must satisfy the two-part standard established by *Strickland v. Washington* to prevail on an ineffective assistance of counsel claim. 466 U.S. 668 (1984); *see also Hill v. Lockhart*, 474 U.S. 52, 58 (1985) (holding that “the two-part *Strickland v. Washington* test applies to challenges to guilty pleas based on ineffective assistance of counsel”). For the first prong, Mr. Vasquez must show that counsel’s performance was deficient. *Strickland*, 466 U.S. 668 at 687. To meet the second prong, Mr. Vasquez must show that the alleged deficiency prejudiced him. *Id.* If Mr. Vasquez does not make both showings, “it cannot be said that the conviction . . . resulted from a breakdown in the adversary process that renders the result unreliable.” *Id.*

Mr. Vasquez argues that defense counsel’s performance was deficient because counsel falsely informed Mr. Vasquez that the Government made an oral promise to recommend a sentence below the Sentencing Guidelines range. Mem. at 5. Furthermore, Mr. Vasquez alleges that this deficiency prejudiced him because it induced him to plead guilty instead of proceeding to trial. *Id.* at 10.

1. Deficient Performance

To meet *Strickland*'s first prong, Mr. Vasquez must show that counsel's performance was deficient, or in other words, that "the acts or omissions of trial counsel 'were outside the wide range of professionally competent assistance.'" *United States v. Nolan*, 956 F.3d 71, 79 (2d Cir. 2020) (quoting *Strickland*, 466 U.S. at 690). There is "a strong presumption" that counsel rendered adequate assistance and "made all significant decisions in the exercise of reasonable professional judgment." *Strickland*, at 689–90. Thus, the standard to establish ineffective assistance of counsel is "rigorous and presents a high bar because courts apply a presumption of effective performance." *United States v. Melhuish*, 6 F.4th 380, 393 (2021).

Mr. Vasquez argues that counsel's performance was deficient because defense counsel allegedly falsely informed him that the Government agreed to recommend a sentence of no more than ten years, which would have been a recommendation below the Sentencing Guidelines range. Mem. at 11. Mr. Vasquez also argues that his counsel's failure to demand that the Government abide by this alleged promise during his sentencing hearing was ineffective assistance of counsel. *Id.* at 9.

The Court disagrees.

In cases asserting an ineffective assistance of counsel claim during the plea stage, courts focus on "whether the defendant was aware of actual sentencing possibilities." *Francisco v. United States*, 115 F. Supp. 3d 416, 421 (S.D.N.Y. 2015) (citing *United States v. Arteca*, 411 F.3d 315, 320 (2d Cir.2005)); see also *Hsu v. United States*, 954 F. Supp. 2d 215, 221 (S.D.N.Y. 2013) ("Hsu also stated that he had discussed the U.S. Sentencing Guidelines with [his attorney] and that any estimate or prediction as to his sentence was not a guarantee since the trial court had

discretion to determine the sentence Thus, his ineffective assistance claim based on [his attorney's] sentencing estimates cannot prevail.”).

Counsel's performance may be deficient if the defendant is persuaded to plead guilty based on false promises or assurances that the judge will impose a particular sentence. *See Mosher v. Lavallee*, 491 F.2d 1346, 1347 (2d Cir. 1974) (per curiam) (affirming the district court's finding of deficiency where “a false statement by defense counsel to Mosher that a promise of a minimum sentence had been made by the judge who thereafter imposed the maximum sentence”). Mr. Vasquez's case, however, is distinguishable from *Mosher* because while defense counsel allegedly “told Mr. Vasquez that the agreement came with a promise from the government to recommend ‘no more than 10 years’ regardless of the Guidelines range,” defense counsel did not make any promise or assurance that the judge would impose a particular sentence. Mem. at 5.

Moreover, counsel's performance is generally not considered deficient even if counsel made an incorrect estimation or prediction of sentencing before the defendant pleads guilty. *United States v. Sweeney*, 878 F.2d 68, 70 (2d Cir. 1989). This is particularly true when the petitioner confirms during his plea allocution that he understands the terms of the written plea agreement. *See Francisco*, 115 F. Supp. 3d at 423 (“As to Francisco's allegations regarding his lack of understanding of the Plea Agreement, those are plainly contradicted by the record.”); *LaMarco v. United States*, 336 F. Supp. 3d 152, 170 (E.D.N.Y. 2018) (finding the petitioner's ineffective assistance of counsel claim was meritless because it was “directly contradicted by his guilty plea allocution”); *Hsu*, 954 F. Supp. 2d at 221 (“Any allegations a defendant makes in a § 2255 petition ‘cannot overcome his contrary statements under oath during a plea allocution,

which must be given presumptive force of truth.” (quoting *United States v. Hernandez*, 242 F.3d 110, 112–13 (2d Cir. 2001) (per curiam))).

Here, defense counsel allegedly represented that the Government would recommend a certain sentence at sentencing, which functioned as a mere “estimate reflecting what he believed the likely range would be,” based on the Government’s promise. *Sweeney*, 878 F.2d at 68.

During Mr. Vasquez’s plea colloquy, however, he testified under oath to the following: (1) that the Court could “impose a sentence more severe than [he] may expect, *United States v. Vasquez*, 3:15-cr-00120-VAB (D. Conn. Sept. 25, 2017), ECF No. 769 (“Tr. of Guilty Plea”) (answering “Yes, your Honor” to this question); (2) that “the written plea agreement and the other matters . . . discussed . . . fully and accurately reflected his understanding of the agreement he entered into with the government,” *id.* at 34 (answering “Yes, your Honor” to this question); and (3) “other than the promises contained in the written agreement” no other promises caused him “to plead guilty,” *id.* at 35. Mr. Vasquez also testified that he was satisfied with the representation he had been provided and that he understood the sentencing possibilities that he faced after pleading guilty. *Id.* at 7, 21–24. Similar to *LaMarco* and *Hsu*, this testimony, and its contradiction to Petitioner’s present assertions that he received an oral promise from the Government, show that defense counsel’s performance was not deficient because Mr. Vasquez “cannot overcome his contrary statements under oath during a plea allocution, which must be given presumptive force of truth.” *Hernandez*, 242 F.3d at 112–13.

Accordingly, the Court finds that Mr. Vasquez has not met his burden of establishing the first *Strickland* prong.

2. Prejudice

Even if Mr. Vasquez had satisfied the first *Strickland* prong, he cannot establish prejudice. To meet *Strickland*'s second prong, Mr. Vasquez must show that the alleged deficiency prejudiced him, or that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Nolan*, 956 F.3d at 79 (quoting *Strickland*, 466 U.S. at 694). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Kovacs v. United States*, 744 F.3d 44, 51 (2d Cir. 2014) (citing *Strickland*, 466 U.S. at 694). This requires a showing that "counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." *Strickland*, 466 U.S. at 687.

Mr. Vasquez argues that defense counsel's statement, which alleged that the Government made an oral promise to recommend a sentence lower than the one that was recommended at sentencing, prejudiced him because, without the Government's oral promise, he would not have plead guilty and would have proceeded to trial. Mem. at 10. Mr. Vasquez supports his argument that he "demanded trial consistently" by pointing to evidence that the plea agreement was signed on the morning that jury selection was set to commence. *Id.* at 10–11. In Mr. Vasquez's view, this demonstrates that, but for defense counsel's statement about the Government's oral promise, the outcome would have been different. *Id.* at 13.

The Court disagrees.

In cases asserting an ineffective assistance of counsel claim during the plea stage, prejudice is shown when "there is a reasonable probability that, but for the counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Hill*, 474 U.S. at 59. "In determining whether a different outcome sufficiently demonstrates prejudice, [the court]

must keep in mind that ‘a defendant has no right to be offered a plea, nor a federal right that the judge accept it.’” *Kovacs*, 744 F.3d at 52 (quoting *Missouri v. Frye*, 566 U.S. 134, 148–49 (2012)).

Determining prejudice is a “context-specific” inquiry, *id.*, and the context surrounding Mr. Vasquez’s guilty plea reveals that he was not prejudiced.

“In determining whether the assertions in a § 2255 motion warrant discovery or a hearing, the court must . . . take into account admissions made by the defendant at his plea hearing, for ‘[s]olemn declarations in open court carry a strong presumption of verity.’” *Gonzalez v. United States*, 722 F.3d 118, 131 (2d Cir. 2013 (quoting *Blackledge v. Allison*, 431 U.S. 63, 74 (1977))); *see also Foster v. United States*, No. 3:97-CV-286 (AHN), 1998 WL 386482, at *13–14 (D. Conn. June 12, 1998) (“[T]here is no merit to the Petitioner’s claim that he relied on counsel’s representation . . . because he stated at the plea hearing that no promises or predictions had been made to him in this regard.”).

Furthermore, in cases where “counsel misadvised the Petitioner in some way regarding his potential sentence, this error [is] cured by the Court’s thorough questioning of the Petitioner throughout the plea allocution and the fact that the potential sentences were laid out in the Plea Agreement and in the allocution.” *LaMarco*, 336 F. Supp. 3d at 170 (citing *Ventura v. Meachum*, 957 F.2d 1048, 1058 (2d Cir. 1992)).

Mr. Vasquez’s assertion that defense counsel’s statement prejudiced him falls short because, as was the case in *Hill*, Mr. Vasquez has not sufficiently proved that, absent the alleged oral promise, he would have declined the plea offer and insisted on going to trial. *Hill*, 474 U.S. at 59. In fact, the record supports the opposite conclusion. Similar to the Petitioner in *Foster*, during his plea colloquy, Mr. Vasquez affirmed under oath that he had not been promised

anything other than what was reflected in the written plea agreement in exchange for pleading guilty. Tr. of Guilty Plea at 35. Therefore, Mr. Vasquez’s assertion that he relied on a promise outside of the written agreement when he made the decision to plead guilty has no merit.

Even if defense counsel did inform Mr. Vasquez of an oral promise from the Government, as was the case in *LaMarco*, this error was “cured” by the Court’s thorough questioning during Mr. Vasquez’s plea colloquy and by the fact that the potential sentences were explicitly included in the written Plea Agreement. Tr. of Guilty Plea at 21–24; Plea Agreement at 2–4; *see also LaMarco*, 336 F. Supp. 3d at 170 (finding that, although “counsel misadvised the Petitioner in some way regarding his potential sentence, this error [is] cured by the Court’s thorough questioning of the Petitioner throughout the plea allocution and the fact that the potential sentences were laid out in the Plea Agreement and in the allocution.”). Therefore, defense counsel’s performance was not prejudicial.

Accordingly, Mr. Vasquez has not met his burden of establishing the second *Strickland* prong.

B. The Deprivation of Due Process Claim: An Alleged Unknowing and Involuntary Plea

“A guilty plea operates as a waiver of constitutional rights, including the rights to a jury trial and against self-incrimination, and it is therefore valid only if done voluntarily, knowingly, and intelligently, ‘with sufficient awareness of the relevant circumstances and likely consequences.’” *Bradshaw v. Stumpf*, 545 U.S. 175, 183 (2005) (quoting *Brady v. United States*, 397 U.S. 742, 748 (1970)). Mr. Vasquez therefore must demonstrate that his guilty plea was entered unknowingly and involuntarily to prevail on his due process claim.

Mr. Vasquez argues that his plea was unknowing and involuntary because counsel informed him that the agreement came with the Government's promise to recommend a sentence on the low-end of the Sentencing Guidelines. Mem. at 18. He further asserts, in the case that the Government refutes that such a promise was made, that defense counsel "miscommunicated the direct consequences and benefits of the plea," thereby rendering it unknowing and involuntary. *Id.*

The Court disagrees.

"An erroneous sentence estimate by defense counsel does not render a plea involuntary." *United States ex rel. Scott v. Mancusi*, 429 F.2d 104, 108 (2d Cir. 1970) (quoting *U.S. ex rel. Bullock v. Warden, Westfield State Farm for Women*, 408 F.2d 1326, 1330 (2d Cir. 1969)); see also *Johnson v. Disher*, No. 04-CV-5120, 2006 WL 1912737, at *5 (E.D.N.Y. July 11, 2006) (finding that the defendant's counsel's advice that "the judge would likely give him 'conservative time' if he waived his right to a jury trial" could not support the defendant's due process claim where "[t]he record in this case show[ed] that [the defendant] repeatedly stated in open court that nobody had forced, threatened, or coerced him into waiving his right to a trial by jury").

Predictions made by attorneys that are "couched in the language of hope rather than of promise and [are] merely estimates made in good faith as to what he thought would result" do not constitute sufficient coercion such that a defendant's plea would be considered involuntary. *Mancusi*, 429 F.2d at 108.

Additionally, "a defendant's later self-serving statements which contradict his unequivocal allocution testimony do not satisfy his burden to 'raise a significant question about the voluntariness' of his plea." *Almeida v. United States*, Nos. 99 Civ. 12282 (SWK), 97 CR

1249 (SKW), 2001 WL 1478804, at *1 (S.D.N.Y. Nov. 20, 2001) (quoting *United States v. Torres*, 129 F.3d 710, 715 (2d Cir.1997)); see also *United States v. Gonzalez*, 970 F.2d 1095, 1101 (2d Cir. 1992) (“[T]he District Court could properly reject Gonzalez’ unsupported allegations that his plea was the result of reliance on his attorney’s incorrect characterization of the agreement and transmittal of an alleged promise made by the prosecutor,” because the defendant “stated unequivocally that he had read the cooperation agreement and was familiar with its content, and that no other offers had been made to him to induce his plea.”); *United States v. Overton*, 24 F.4th 870, 879 (2d Cir. 2022) (“A criminal defendant’s self-inculpatory statements made under oath at his plea allocution carry a strong presumption of verity and are generally treated as conclusive in the face of the defendant’s later attempt to contradict them.” (citations and quotation marks omitted)).

Here, defense counsel’s alleged statement that the Government had made an oral promise to recommend a certain sentence was merely an estimate “made in good faith as to what he thought would result” at sentencing, and therefore, does not demonstrate that Mr. Vasquez was coerced into pleading guilty. *Mancusi*, 429 F.2d at 108; see also *James v. United States*, No. 3:02-cr-334 (PCD), No. 3:05-cv-1365 (PCD), 2006 WL 1821771, at *18–19 (D. Conn. June 30, 2006) (finding that defense counsel’s estimation of possible outcomes, including the “blunt rendering of a negative assessment of Petitioner’s chances at trial, combined with advice to enter the plea, do not constitute improper behavior or coercion that would suffice to invalidate his guilty plea”).

Mr. Vasquez’s assertion that his plea was involuntary and unknowing is specifically refuted by his affirmations, made under oath at the plea allocution, that he was satisfied with his attorney’s representation of him, that he discussed with his attorney the consequences of

pleading guilty, that he understood the contents of the plea agreement, and that he was not coerced into entering into the plea agreement or pleading guilty. Tr. of Guilty Plea at 7, 12, 23–24, 35. Therefore, during the plea allocution, Mr. Vasquez demonstrated that he was pleading guilty “with sufficient awareness of the relevant circumstances and likely consequences.” *Bradshaw*, 545 U.S. at 183 (quoting *Brady v. United States*, 397 U.S. 742, 748 (1970)).

Accordingly, the Court will deny Mr. Vasquez’s due process claim.

C. The Breach of Contract Claim

Generally, plea agreements are interpreted according to principles of contract law. *United States v. Salcido-Contreras*, 990 F.2d 51, 52 (2d Cir. 1993). A promise made by a prosecutor to induce a plea agreement must be fulfilled. *Santobello v. New York*, 404 U.S. 257, 262 (1971) (“[W]hen a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled.”).

Mr. Vasquez argues that the Government breached a contract with him by failing to uphold its oral promise to recommend no more than ten years in prison at sentencing and, instead, recommending a sentence at the high end of the Guidelines. Mem. at 14–15. Mr. Vasquez also argues that this failure to perform is sufficient to invalidate his sentence under § 2255. *Id.*

The Court disagrees.

A breach of contract may be found when the Government argues for a harsh sentence after formerly agreeing in the written plea agreement to “take no position” at sentencing. *United States v. Corsentino*, 685 F.2d 48, 49 (2d Cir. 1982). This type of breach of contract claim, however, has typically been applied to specific promises made in written plea agreements. *See*,

e.g., *United States v. Sehgal*, 480 F. App'x 16, 21–22 (2d Cir. 2012) (finding that the written plea agreement only “precluded the government from advocating for a Guidelines sentence generally, as opposed to one below the Guidelines” and therefore, the government’s “comments . . . in response to [the defendant’s] request for a non-Guidelines sentence of restitution” were not a breach of contract).

Mr. Vasquez’s case is distinguishable, however, from *Corsentino* because the Government did not promise Mr. Vasquez in the written plea agreement that they would refrain from taking a certain position at sentencing. Plea Agreement. Moreover, Mr. Vasquez did not alert the court, during his plea allocution or during sentencing, of any promises that were made outside of the plea agreement. Tr. of Guilty Plea; Tr. of Sentencing Hrg, *United States v. Vasquez*, (D. Conn. June 21, 2017), ECF No. 763. Indeed, Mr. Vasquez affirmed that no promises were made outside of the written plea agreement. Tr. of Guilty Plea at 35 (“The Court: And, other than the promises contained in the written agreement, has anyone made any promises that are causing you to plead guilty, sir? The Defendant: No, your Honor.”). Therefore, the Government did not breach any of the terms in the written plea agreement, and the available remedies that Mr. Vasquez requests are not applicable.

Accordingly, Mr. Vasquez’s breach of contract claim will be denied.

IV. CONCLUSION

For the reasons explained above, the motion to vacate, set aside, or correct Mr. Vasquez’s sentence is **DENIED**.

The Clerk of Court is respectfully directed to close the case.

SO ORDERED at Bridgeport, Connecticut, this 21st day of April, 2023.

/s/ Victor A. Bolden
Victor A. Bolden

United States District Judge

Applicant Details

First Name	Corey
Last Name	Schiff
Citizenship Status	U. S. Citizen
Email Address	jcs2293@columbia.edu
Address	<div> <div>Address</div> <div> <div>Street</div> <div>186 Riverside Drive, Apt 6A</div> <div>City</div> <div>New York</div> <div>State/Territory</div> <div>New York</div> <div>Zip</div> <div>10024</div> <div>Country</div> <div>United States</div> </div> </div>
Contact Phone Number	6467157322

Applicant Education

BA/BS From	Dartmouth College
Date of BA/BS	May 2018
JD/LLB From	Columbia University School of Law
	http://www.law.columbia.edu
Date of JD/LLB	May 10, 2024
Class Rank	School does not rank
Law Review/Journal	Yes
Journal(s)	Columbia Business Law Review
Moot Court Experience	No

Bar Admission**Prior Judicial Experience**

Judicial Internships/Externships	No
Post-graduate Judicial Law Clerk	No

Specialized Work Experience

Recommenders

Mitts, Joshua
joshua.mitts@law.columbia.edu
212-854-7797

Talley, Eric
etalley@law.columbia.edu

Heller, Michael
mhelle@law.columbia.edu
212-854-9763

This applicant has certified that all data entered in this profile and any application documents are true and correct.

J. Corey Schiff
186 Riverside Drive, Apt. 6A
New York, NY, 10024
646-715-7322
jcs2293@columbia.edu
June 12, 2023

The Honorable Stefan R. Underhill
United States District Court
District of Connecticut
Brien McMahon Federal Building and United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill,

I am a second-year student at Columbia Law School, and I write to apply for a clerkship in your chambers for the 2024–2026 term.

While born and raised in New York City, I consider Connecticut my home. I attended boarding school in Lakeville and my parents now live in Weston. Following my 1L year, I interned at the U.S. Attorney’s Office for the District of Connecticut in New Haven. In all, I welcome the opportunity to begin putting down roots in the Constitution State, both as a clerk in your chambers and after as a practicing lawyer.

At Columbia, I am the senior submissions editor for the Columbia Business Law Review. I am currently a summer associate at Paul, Weiss, Rifkind, Wharton & Garrison LLP in Washington, D.C. and will be externing at the U.S. Attorney’s Office for the Southern District of New York this fall. Before law school, I worked as an investment banking associate.

Enclosed please find my resume, law school transcript, and writing sample. Also enclosed are letters of recommendation from Professors Eric Talley (212-854-0437), Michael Heller (212-854-9763), and Joshua Mitts (212-854-7797).

Thank you for your consideration. Should you need any additional information, please do not hesitate to contact me.

Respectfully,

J. Corey Schiff

J. COREY SCHIFF

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EDUCATION

Columbia Law School, New York, NY

J.D. Candidate

May 2024

Honors: Harlan Fiske Stone Scholar (1L), James Kent Scholar (2L)

Activities: *Columbia Business Law Review*, Senior Submissions Editor

Teaching Assistant for Professor Eric Talley (Contracts), Fall 2022

Teaching Assistant for Professor Michael Heller (Property), Spring 2023

Dartmouth College, Hanover, NH

B.A., *magna cum laude*, received in History

June 2018

Honors: Louis Morton Memorial Prize (Best Composition in European History)

Activities: Dartmouth Institute for Writing and Rhetoric, Lead Tutor

Club Soccer, Basketball, Lacrosse, Golf

EXPERIENCE

United States Attorney's Office | Southern District of New York, New York, NY

Incoming Extern

Fall 2023

Paul, Weiss, Rifkind, Wharton & Garrison LLP, Washington, D.C. / New York, NY

Summer Associate

Summer 2023

United States Attorney's Office | District of Connecticut, New Haven, CT

Intern

Summer 2022

Drafted motions, memoranda and briefs, including a Second Circuit appeal. Conducted legal research on habeas motions, fraud sentences and federal-state comity in sentencing, among other topics. Assisted Assistant United States Attorneys in trial preparation and sentencing-related matters.

Jefferies Group, New York, NY

Debt Advisory & Restructuring Investment Banking Associate

Summer 2017; July 2018 – June 2021

Reviewed financial statements, capital structures and credit agreements to identify special situations for engagement and assess potential resolutions. Created analyses including corporate valuations, value recovery waterfalls and liquidity projection models to evaluate solutions for deal team negotiations. Oversaw all day-to-day functions of complex transactional processes with greater than two hundred interested parties. Promoted to Associate after only two years of the three-year Analyst program.

Osborne Association, New York, NY

Junior Board Member

April 2019 – Present

Chair Volunteer Committee to plan, promote and execute volunteer initiatives for organization serving individuals, families and communities affected by the criminal justice system.

Dimensional Fund Advisors, Austin, TX

Institutional Services Analyst

January – March 2017

Performed industry and market research requested by institutional clients. Completed and presented actionable report on the Collective Investment Trust market directly to the Global Head of Institutional Services.

Rockefeller Beds, Hanover, NH

Co-Owner

June 2015 – January 2017

Purchased company that sells full-sized beds to continue meeting student demand. Created automated commerce and tracking system to increase logistical capabilities.

INTERESTS

Reading (fiction, historical non-fiction), Tibetan Buddhism, Golf, Hiking, the NBA, Romantic Poetry



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CLS TRANSCRIPT (Unofficial)

06/09/2023 07:20:42

Program: Juris Doctor

Justin C Schiff

Spring 2023

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6231-2	Corporations	Talley, Eric	4.0	A
L6241-1	Evidence	Capra, Daniel	4.0	A-
L6429-1	Federal Criminal Law	Richman, Daniel	3.0	B+
L6683-2	Supervised Research Paper	Mitts, Joshua	1.0	A

Total Registered Points: 12.0**Total Earned Points: 12.0**

Fall 2022

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6238-1	Criminal Adjudication	Richman, Daniel	3.0	A-
L6256-1	Federal Income Taxation	Schizer, David M.	4.0	A
L6169-1	Legislation and Regulation	Bulman-Pozen, Jessica	4.0	A-
L6675-1	Major Writing Credit	Mitts, Joshua	0.0	CR
L6683-1	Supervised Research Paper	Mitts, Joshua	1.0	A
L6822-1	Teaching Fellows	Talley, Eric	4.0	CR

Total Registered Points: 16.0**Total Earned Points: 16.0**

Spring 2022

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6133-2	Constitutional Law	Ponsa-Kraus, Christina D.	4.0	B+
L6108-3	Criminal Law	Rakoff, Jed	3.0	B+
L6865-1	Environmental Law Moot Court	Amron, Susan	0.0	CR
L6474-1	Law of the Political Process	Greene, Jamal	3.0	B+
L6121-38	Legal Practice Workshop II	Amron, Susan	1.0	P
L6116-3	Property	Heller, Michael A.	4.0	A

Total Registered Points: 15.0**Total Earned Points: 15.0**

January 2022

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6130-2	Legal Methods II: Legal Theory	Purdy, Jedediah S.	1.0	CR

Total Registered Points: 1.0**Total Earned Points: 1.0****Fall 2021**

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6101-3	Civil Procedure	Johnson, Olatunde C.A.	4.0	B+
L6105-7	Contracts	Talley, Eric	4.0	A-
L6113-1	Legal Methods	Ginsburg, Jane C.	1.0	CR
L6115-25	Legal Practice Workshop I	Newman, Mariana; Smith, Trisha	2.0	P
L6118-2	Torts	Merrill, Thomas W.	4.0	A

Total Registered Points: 15.0**Total Earned Points: 15.0****Total Registered JD Program Points: 59.0****Total Earned JD Program Points: 59.0****Honors and Prizes**

Academic Year	Honor / Prize	Award Class
2022-23	James Kent Scholar	2L
2021-22	Harlan Fiske Stone	1L

June 12, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill:

I am writing to strongly and enthusiastically recommend Corey Schiff for a clerkship in your Chambers. I have had the pleasure of getting to know Corey over the past academic year and I am utterly confident that he deserves my unqualified recommendation.

I met Corey when I had the pleasure of supervising his Note. He chose a fascinating and challenging topic – shadow trading. Corey's project examines the important question of whether insider trading prohibitions extend to trading in the shares of a competitor firm. Corey answers this question by examining novel empirical evidence that he painstakingly gathered himself. In so doing, Corey went far beyond what is expected from a student authoring a Note. I was extremely impressed by the initiative, focus, and skill with which he executed this project.

Aside from his obvious legal aptitude, one of the aspects of Corey's personality that really marked him out was his positive attitude and hard work ethic. I think a clerkship would be an excellent opportunity for someone of his talents. It gives me great pleasure to write this letter as I have no doubt that he will be a star in this role and I support his application wholeheartedly. This would be an incredible opportunity for him and if you take him on as a clerk I guarantee that you will not regret it.

If I can be of assistance in any way as you consider this very strong applicant, please don't hesitate to call or email me.

Sincerely,

Joshua Mitts
Professor of Law

Joshua Mitts - joshua.mitts@law.columbia.edu - 212-854-7797

June 11, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill:

I write with great enthusiasm to recommend Mr. Corey Schiff, a rising 3L at Columbia Law School, in connection with his application for a judicial clerkship in your chambers. I have known Mr. Schiff for two years, in both a classroom setting and outside. In his short time here, Corey has become one of my favorite students ever. He is exquisitely smart, articulate, engaged, and creative—but beyond all that he pulls it off with an infectious enthusiasm and curiosity that benefits both his peers and his professors. I recommend him with tremendous enthusiasm and confidence, with no reservations whatsoever.

I first met Mr. Schiff when he was assigned to my small section of contracts in the Fall of 2021. As you no doubt recall, contract law is a foundations course in nearly every law school (including Columbia), and success in the course is a particularly salient benchmark for future performance. Corey did extremely well in the course, earning an “A-” overall. In reviewing his file for the purposes of composing this letter, I note that Corey’s exam—while strong—was overshadowed by effusive notes I took about him throughout the term. He and I interacted many times, and it was clear that he had an engagement with the topic that was rare. He quickly became my “go-to” cold call target (perhaps to his chagrin) during the term, and he invariably proved game for the discussion.

I was therefore happy to see Corey enrolled once again in my Spring 2023 Corporate Law class. This is a very challenging (and very large) course, and at Columbia in particular it serves as a bellwether class. I challenge my students accordingly, confronting them not only with a significant dose of statutory and doctrinal material, but also with extensive readings in organizational theory, economics, corporate finance and accounting. Beyond statutes and doctrine, they are expected to become conversant in (and understand criticisms of) the ideas of Coase, Hayek, Williamson, and Friedman, all the while mastering basic accounting and valuation concepts. Corey picked up right where he left in Contracts, and his contributions and interventions were (once again) invariably thoughtful and incisive. As the term neared its end in May 2023, I had a feeling Corey was going to do well in the course. And he delivered: his final grade for the class was an “A”, and his submission earned the third highest raw score in the 174-person class. In reviewing his exam as I prepared to write this letter, I am once again impressed with his ability to spot important issues, connect them together, and distill creative analytics.

Overall, there simply was not a student who presented a better combination of in-class engagement and high quality written work. I am hard pressed to think of any comparable examples over the last few years, in fact. I have a scheduled break from large classes next year, but I intend to recommend Corey as a TA to our new faculty member who is teaching Corporations.

My in-class interactions with Corey are but one facet of my background with him. I interact with him routinely in other contexts, including his involvement with the Columbia Business Law Review (where I am a faculty advisor). In each instance, I am struck by Corey’s professionalism, approachability, and judgment. I have grown to like and respect him considerably, and I very much hope to see more of him next year in my upper division business law classes.

Feel free to contact me at the number above if you have any questions about this Mr. Schiff. I am enthusiastic about his talents and his prospects, and I urge you to kick his tires to see for yourself.

Sincerely,

Eric L. Talley
Sulzbacher Professor of Law

Eric Talley - etalley@law.columbia.edu

June 11, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill:

Corey Schiff will make a superb judicial clerk. If you meet him, you will want to hire him. Given his first-rate legal analytic ability and easy-going manner, Corey will excel in the most demanding chambers. I recommend him with warmth, confidence, and no reservations.

Corey's 2L GPA of 3.76 will, I think, earn him Kent Honors, our summa cum laude equivalent, putting him in the top cohort of his class. His 1L GPA of around 3.59 earned Stone Honors, our equivalent of magna cum laude. Overall, Corey is superstar smart.

I first got to know Corey when he was a standout student in my Spring 2022 100-student Property class, writing one of the top three "A" exams. More than that, though, throughout the semester, he was consistently one of the most insightful, intentional, and succinct contributors to class discussion. I cold-call students, and he was always prepared; he also volunteered comments regularly (which I strongly encourage) in ways that advanced the class with tact, good humor, and analytic rigor. In one early class on trespass, Corey commented on the competing Blackstonian and "bundle-of-sticks" conceptions of property in the cases, and anticipated my discussion of property and liability rules from later in the semester. It was a dazzling intervention. He earned the top score that I award for class participation. That engagement is what I look for and rarely find in 1L students.

Based on his class performance, I invited Corey to be a Teaching Assistant for Property. I only invite my most exceptional students to become TAs – so this is just about the highest stamp of approval I can give. Students reported that Corey did a great job as a TA, running regular review sessions, giving exam feedback, and serving as a mentor to anxious 1L students. He also taught me something about property law – if you interview him, ask him about the story of the Buddha and the Wounded Swan. Here's a representative sampling of student comments: "In explaining challenging topics, Corey shines. He teaches with patience and compassion;" "Corey was by far the most dedicated TA I had during my 1L year;" "Corey was an invaluable resource who went above and beyond by making himself available to provide mentorship;" "He's approachable, smart, patient, and organized;" "Beyond being a great teacher, Corey is a genuinely kind person." This clarity of mind and wonderful interpersonal skill will serve Corey well as a clerk.

Corey is actively involved in the Columbia Law School community. In his 2L year, he was elected Senior Submissions Editor for the Columbia Business Law Review, a testament to the high level of esteem in which he was held by his fellow editors. From what I understand, the board transition this year left Corey without any other submissions editors to read through the hundreds of submissions for the first issue. So, Corey did it all, practically on his own. Corey has also written a Note for the Review based on sophisticated, original empirical work. He investigated a recent development in insider trading around what's known as "Shadow Trading," through which people may circumvent insider trading regulation by trading in "stock substitutes," such as competitors or customers whose stock prices might be predictably affected by inside information. It's an impressive argument – no surprise given that he won a writing prize at Dartmouth and came to law school intending to become a professor.

Corey worked for three years in investment banking prior to coming to law school, and it shows. In a good way. You can tell he's excelled in a fast-paced professional setting. I understand he was promoted early based on feedback emphasizing his team-oriented nature and his role as a "culture carrier" within his group. I saw this in the leadership role he took among my TAs this year: he got back to me right away on all the logistical aspects of TA work, let me know the plan to complete the task, and confirmed that it was done. That reliability was very reassuring.

Corey is open to divergent views and to careful, fair-minded consideration of the legal issues at stake. He has the legal analytic ability to fit easily into the most intellectually-engaged chambers and to bring a high level of maturity, ease, kindness, and reliability to the job. He is calm and productive under pressure. Corey will make a wonderful clerk. I give him my strongest recommendation – as I hope this letter conveys – and would be pleased to discuss him further.

Sincerely,

Michael Heller

Michael Heller - mhelle@law.columbia.edu - 212-854-9763

J. COREY SCHIFF

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Writing Sample

The following writing sample is an excerpt from a Second Circuit brief that I wrote as a summer intern at the United States Attorney's Office for the District of Connecticut. The document was a research tool for the AUSAs on the case, and I have lightly edited it for clarity, grammar, and length since the original submission. The brief follows Second Circuit rules, and I have removed some sections for brevity. The United States Attorney's Office has given me permission to use this writing sample for this clerkship application. Background on the case appears on the next page.

Background

The defendant was in state custody, facing both state and federal charges. Opting to plead guilty to the federal charges while fighting the state charges, the defendant was sentenced in federal court while still in state custody and in advance of any potential state convictions.

During the sentencing hearing, but after the sentencing itself, the defendant's counsel requested that the court immediately remand the defendant to federal custody to begin serving his federal sentence. After encouraging defense counsel to research whether that was possible, the district court judge said, "I am not going to make any statement about [whether] this sentence is concurrent or consecutive to any other sentence. I leave it as it is and I leave other Courts if they choose to designate their sentences as concurrent or consecutive to this sentence."

On appeal, the defense challenged the propriety of this delegation, arguing that the district court was required to determine whether the defendant's federal sentence would be concurrent with or consecutive to any sentence he might receive in his pending state cases. There was also debate over whether the defendant properly preserved the issue, but the writing sample presents the argument assuming the issue was preserved.

QUESTION PRESENTED

1. Did the district court err by deferring the consecutive versus concurrent determination for defendant's then-unadjudicated state sentences to the state court?

PRELIMINARY STATEMENT

[omitted for length]

STATEMENT OF THE CASE

[omitted for length]

SUMMARY OF ARGUMENT

A district court is entitled but not obligated to determine whether its sentence will run concurrently with or consecutively to an anticipated state sentence. It is entirely appropriate for a district court to defer such a determination to a later sentencing state court. Such deferrals have been expressly sanctioned by the Supreme Court, and, unsurprisingly given the Supreme Court's clarity, approved in several other circuits. Second Circuit precedents support the practice as well. In this case—where there was significant uncertainty about the likely disposition of the pending state cases at the time of federal sentencing—the district court's decision to defer determination was particularly apt. Accordingly, the district court did not err and the Government respectfully asserts that the judgment should be affirmed.

GOVERNING LAW

18 U.S.C. § 3584. Section 3584 of Title 18 addresses multiple sentences of imprisonment. Section 3584(a) recognizes that when “multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively.” 18 U.S.C. § 3584(a). The statute also establishes two presumptions. First, “[m]ultiple terms of

imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively.” *Id.* Conversely, “[m]ultiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.” *Id.* In making concurrent-vs.-consecutive sentencing determinations, § 3584 compels courts to consider the § 3553(a) factors for the imposition of a sentence. 18 U.S.C. § 3584(b).

18 U.S.C. § 3621. Section 3621 of Title 18 addresses the imprisonment of federally convicted persons. The statute commits these individuals to the custody of the Bureau of Prisons (“BOP”) until their imposed term expires or they are released for satisfactory behavior. 18 U.S.C. § 3621(a).

As part of this custody, § 3621(b) empowers the BOP to “designate the place of the prisoner’s imprisonment.” 18 U.S.C. § 3621(b). To make this determination, the statute lists a set of considerations distinct from § 3553’s, which includes “any statement by” the sentencing court “concerning the purposes for which the sentence to imprisonment was determined to be warranted” or “recommending a type of penal or correctional facility as appropriate.” 18 U.S.C. § 3621(b)(4).

The statute further allows the BOP to elect “*any* available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, *whether maintained by the Federal Government or otherwise . . .*” 18 U.S.C. § 3621(b) (emphasis added). As a result, the BOP may designate a state facility as the place of federal imprisonment.

Practically, this section enables the BOP to implement a district court’s sentencing of a prisoner serving a pre-existing state sentence to concurrent time. *See Francis v. Fiocco*, 942 F.3d 126, 132–33 (2d Cir. 2019) (noting the BOP “implement[s] a federal sentencing court’s directive of concurrency” by “direct[ing] that [the prisoner] serve his federal sentence in state custody.”) (alterations added). Likewise, BOP implements a consecutive sentence by not directing service in a state facility. *Id.* A BOP Program Statement explains that “[n]ormally, designating a non-federal

institution for the inmate is done when it is consistent with the federal sentencing court's intent." BOP Program Statement 5160.05, ¶ 9(b) (2003).

Setser v. United States. Section 3584 addresses only when "multiple terms of imprisonment are imposed on a defendant at the same time" or "a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment." 18 U.S.C. § 3584(a). As a result, it does not direct federal sentencing in the shadow of an *anticipated* state sentence, because such a state sentence is not imposed at the same time as the federal sentence and the defendant is not already subject to that state sentence.

In *Setser v. United States*, the Supreme Court considered whether a district court has discretion to order a federal sentence run consecutively to or concurrently with an anticipated state sentence under § 3584, or, as the defense (and government) argued, the decision rests with the BOP alone under § 3621. 566 U.S. 231, 245 (2012). The Court held that district courts had that discretion, citing the common-law background of judicial discretion in sentencing, the likelihood that Congress contemplated the district courts having such authority based on its interpretation of § 3584 (in particular the section's appeal to § 3553(a) factors, which courts, and not the BOP consider), federal-state comity (specifically the desire to present the state court with all the information it needs to make an informed sentencing decision), and separation of powers concerns (i.e., not conferring both prosecutorial and sentencing power to the executive branch). *Id.* at 236, 238–39, 241–242. However, contrary to defendant's assertion here, the Court expressly declined to impose an *obligation* on the district court. After cautioning district courts to "exercise the power . . . intelligently," the Court acknowledged that, "[i]n some situations, a district court may have inadequate information and may forbear." *Id.* at 242 n.6.

STANDARD OF REVIEW

[omitted for length]

ARGUMENT

I. THE DISTRICT COURT DID NOT ERR BY DEFERRING THE CONSECUTIVE VERSUS CONCURRENT DETERMINATION FOR DEFENDANT’S THEN-UNADJUDICATED STATE SENTENCES TO THE STATE COURT.

Tisdol does not argue that the district court misunderstood its authority to make the concurrent-vs.-consecutive determination. Nor does he argue that the district court was required to make the determination given facts particular to his case. Instead, his argument is categorical. He contends that when a federal defendant faces an anticipated state sentence, a district court *must* make the concurrent-vs.-consecutive determination itself and *may not* defer to the state court that is expected to impose sentence later. *See* Appellant’s Br. 4–13.

A. The Supreme Court Has Sanctioned the District Court’s Deferral.

Analysis begins and could end with *Setser*. While the *Setser* Court may have been considering whether a district court *could* make an anticipatory concurrent or consecutive determination, the Court nonetheless resolved whether it *must*. After imploring district courts to exercise their discretion intelligently, the Court recognized that, “in some situations, *a district court may have inadequate information and may forbear . . .*” *Setser*, 566 U.S. at 243 n.6. (emphasis added). This language means what it says—far from Tisdol’s prognostication that “the *Setser* Court’s reasoning makes clear that, had it considered the issue, it would have concluded that the concurrent/consecutive question is committed to the sole discretion of the District Court,” allowing the district court to forbear demonstrates the Supreme Court’s clear aversion to imposing the categorical requirement appellant seeks. Appellant’s Br. 11.

Following the Supreme Court’s clear example, a host of other circuits similarly refuse to require the district court to make the determination. The Seventh, Fourth and Eleventh Circuits have directly considered the issue presented by this case on appeal since *Setser* and have explicitly afforded the district court the discretion to refrain. See *United States v. Olsem*, 37 F.4th 1354, 1357 (7th Cir. 2022) (“We have twice reiterated a sentencing court’s discretion under *Setser* includes the discretion not to decide the relationship between an imposed federal and anticipated state sentence.”) (citing *United States v. Herman*, 884 F.3d 705, 707 (7th Cir. 2018), *United States v. Hoffman*, 847 F.3d 878, 882–83 (7th Cir. 2017)); *United States v. Andrade-Hernandez*, 550 F. App’x 160, 161 (4th Cir. 2014) (“The district court, after concluding that it lacked information about the pending state charge, found that the state court was in a better position to determine whether the sentences (if indeed there is a conviction and sentence on the state charge). . . should run concurrently or consecutively. The district court’s approach is consistent with *Setser*.”); *United States v. Preciado-Rojas*, 536 F. App’x 875, 879 (11th Cir. 2013) (finding the district court did not abuse its discretion by declining to make the determination when “the federal and state crimes were ‘entirely different crimes, and for two types of different conduct.’”) (footnote omitted). Similarly, the Sixth Circuit implicitly recognized the district court’s discretion by failing to find error when the district court deferred. See *Dotson v. Kizziah*, 966 F.3d 443, 444–45 (6th Cir. 2020) (holding that when the district court is silent, the “answer” to the concurrent vs. consecutive question “lies in 18 U.S.C. § 3621(b) . . . so long as that decision does not conflict with either § 3584(a)’s default provision or a district court’s explicit sentencing designation.”).

While this Court has not directly addressed the question, precedent supports rejecting a categorical obligation. Prior to *Setser*, the Second Circuit found no error when the district court failed to make the concurrent-vs.-consecutive determination. See *McCarthy v. Doe*, 146 F.3d 118, 122–

23 (2d Cir. 1998) (allowing district court’s silence on the matter by finding the BOP has authority to effectively determine whether the sentence is concurrent or consecutive by designating the place of imprisonment under § 3621(b)); *see also Abdul-Malik v. Hawk-Sawyer*, 403 F.3d 72, 75–76 (2d Cir. 2005) (treating *McCarthy* as binding precedent to find the “decision whether to designate a [state] facility as a place of federal detention to be plainly and unmistakably within the BOP’s discretion” when “the federal sentencing court [does] not specify that the federal sentence should run concurrently to the state sentence that was soon to be imposed.”). This Court has continued to do so since the *Setser* opinion. *See Evans v. Larkin*, 629 F. App’x 114, 115 (2d Cir. 2015) (holding “the BOP may designate a prisoner’s state prison as a place of federal confinement under 18 U.S.C. § 3621(b)” when the district court does not make the concurrent or consecutive decision it is entitled to.).¹ In *United States v. McIntosh*, the Court noted that “when a defendant serves an initial state sentence and a subsequent federal sentence, the federal *district court* decides whether he will receive credit for the time served in state custody.” *United States v. McIntosh*, 753 F.3d 388, 395 (2d Cir. 2014) (emphasis added) (internal quotation marks omitted). But this statement was dicta as the federal sentence was served first in *McIntosh*, and, therefore, the state court alone was responsible for the determination.² *Id.*

Moreover, the Seventh Circuit recognized that deferring to a later-acting state court is sometimes not just permissible, but also plainly preferable. “Forbearance is especially appropriate where a district court believes a state court will enjoy the benefit of additional, relevant sentencing

¹ The *Evans* court did not reach the question of whether the holding in *Setser* abrogated the previous rulings in *McCarthy* and *Abdul-Malik* as the parties did not raise the issue on appeal. *Evans v. Larkin*, 629 Fed.App’x 114, 115 n.2. (2d Cir. 2015).

² The sovereign whose sentence the defendant serves earlier cannot bind the sovereign whose sentence the defendant serves later with a concurrent-vs.-consecutive decision. *See United States v. McIntosh*, 753 F.3d at 395 (citing *Setser*, 566 U.S. at 241 and *Oregon v. Ice*, 555 U.S. 160, 170 (2009) for the proposition). *McIntosh* decided whether the federal district court must make a *non-binding recommendation* to the state court when the federal sentence is to be served first.

information, placing it in a superior position to determine whether a consecutive or concurrent sentence is warranted.” *Olsem*, 37 F.4th at 1357 (citing *United States v. Hoffman*, 847 F.3d 878, 882–83 (7th Cir. 2017)).

Here, deferring was particularly appropriate because, at the time of federal sentencing, the record suggested an unusually wide range of potential outcomes in state court. On one hand, as Tisdol acknowledged, “[t]he conduct alleged in the state cases [was] the most serious of all” his pending matters, potentially carrying decades of prison time. Presentence Report (“PSR”) ¶31. But on the other hand, he argued that problems with the state prosecution meant that he “may not have to serve a particularly long sentence” in state prison. PSR ¶32. Given this uncertainty, the district court aptly left it to the state court to determine the relationship between Tisdol’s sentences.

B. Appellant’s Characterization of the Deferral Process is Incorrect.

Contrary to appellant’s argument, existing law provides a valid framework to effectuate the district court’s deferral in line with *Setser*’s doctrinal requirements.

As appellant notes, the Supreme Court stated both that “*someone* must answer the concurrent versus consecutive question” and that “each sovereign—whether the Federal government or a state—is responsible for the administration of its own criminal justice system.” *Setser*, 566 U.S. at 234, 241 (internal quotation marks omitted). This led the court to conclude that “it will always be the *Federal* Government—whether the district court or the Bureau of Prisons—that decides whether [a defendant] will receive credit for the time served in state custody.” *Setser*, 566 U.S. at 241 (quoting *Oregon v. Ice*, 555 U.S. 160, 170 (2009) (internal brackets omitted) (emphasis added)). Appellant uses these proclamations to label the district court’s deferral an abdication of sovereign authority. Appellant’s Br. 7.

However, labeling this an outright abdication misses the interplay of the district court, the state court, and the BOP when a defendant is sentenced in federal court in advance of an anticipated state sentence.

In these situations, the sequence works as follows. As the Supreme Court has clarified, the district court certainly may, subject to its discretion, mandate the federal sentence be served consecutively to or concurrently with the yet-to-be-imposed state sentence. *Setser*, 566 U.S. at 244. On the other hand, the district court is also free to clarify its position by deferring determination to the state court, as was done here. *See* Transcript 10/8/2021 at 38–39 (“I am not going to make any statement about [whether] this sentence is concurrent or consecutive to any other sentence. I leave it as it is and *I leave other Courts if they choose to designate their sentences as concurrent or consecutive to this sentence.*”) (emphasis added). If done, deferring authorizes the state court to determine whether the defendant will serve the sentences concurrently or consecutively. Once the state court decides, the decision will be final even if it will not yet bind federal authorities. *See supra* note 2. Then the BOP will effectuate the state court’s determination (implicitly approved by the district court) at the federal level by designating or refusing to designate the state prison as the place of federal incarceration under § 3621(b).

As noted previously, both statute and the BOP’s internal policies confine the BOP to implementing the state court’s determination as decided. Under § 3621(b), the BOP considers “any statement by the court that imposed the sentence” when determining a prisoner’s place of confinement. 18 U.S.C. § 3621(b)(4). This accords with the BOP policy statement on the matter. *See* BOP Program Statement 5160.05(3)(a) (2003) (“[S]tate institutions will be designated for concurrent service of a federal sentence *when it is consistent with the intent of the federal sentencing court or with the goals of the criminal justice system.*”) (emphasis added); *see also United States v. Alvarez*,

Nos. 09–CR–386, 14–CV–8419, 2015 WL 1851658 (S.D.N.Y. Apr. 17, 2015) (referencing the policy statement to assert “that it is the BOP’s policy to ascertain the position of the sentencing judge in its determination of nunc pro tunc designation requests”). A statement explicitly deferring the decision to the state court exhibits the federal sentencing court’s intent, which the BOP cannot subvert without the risk of further judicial involvement. Should the BOP contradict the stated determination of the state court (backed by the implicit approval of the district court), the defendant would be able to challenge the BOP’s designation through a petition for mandamus or habeas corpus. *See, e.g., Mangum v. Hallembaek*, 824 F.3d 98, 103 (4th Cir. 2016) (responding to defendant’s habeas petition by finding abuse of discretion when BOP applied § 3584 presumption of consecutive sentences to decline defendant’s request for nunc pro tunc designation of state facility as place of federal confinement under § 3621(b)); *Dotson v. Kizziah*, 966 F.3d at 444 (defendant filing both mandamus and habeas corpus petitions in response to BOP denial of nunc pro tunc designation under § 3621(b)).

Moreover, the *Setser* opinion does not foreclose the BOP’s ability to effectuate the sentencing court’s determination through a § 3621(b) place of confinement designation. First, the *Setser* Court did not have before it the scope of the BOP’s authority under § 3621(b). *See Elwell v. Fisher*, 716 F.3d 477, 484 (8th Cir. 2013) (“The Court, however, was not called upon to delineate the precise contours of the relationship between the BOP’s § 3621 discretion and district courts’ sentencing determinations, and it did not do so.”). Second, the *Setser* Court explicitly acknowledged that the BOP maintains a role in the concurrent-vs.-consecutive context once the initial decision has been made by the court. *See* 566 U.S. at 244 (recognizing the defendant may still petition the BOP to credit time served under § 3621(b) when the state court’s subsequent sentence rendered federal court’s initial determination infeasible).

C. Appellant’s Counterarguments Regarding Comity, the Statutory Text, Separation of Powers, and Policy are Unavailing.

Once the interplay outlined above of the district court, the state court and the BOP is properly characterized, appellant’s rationales for requiring the district court to make the determination become unpersuasive.

Comity. Defendant bases his comity argument on a judicial interpretation inapplicable to an explicit deferral.

Appellant’s position is grounded in the *Setser* Court’s observation that “it is always more respectful of the State’s sovereignty for the district court to make its decision up front rather than for the Bureau of Prisons to make the decision after the state court has acted.” Appellant’s Br. 14 (citing *Setser*, 566 U.S. at 241). But, the *Setser* Court justified this declaration by explaining, “That way, the state court has all of the information before it when it acts.” *Setser*, 566 U.S. at 241. This is because the *Setser* Court was analyzing whether the district court *or* the BOP would have concurrent-vs.-consecutive sentencing authority when § 3584 did not apply. In the *Setser* context, empowering the BOP as the sole decision maker *would* “interfer[e] with the state court’s ability to determine the length of the defendant’s sentence” because the state court could not be certain of what the BOP would ultimately order. Appellant’s Br. 14.

However, the framework in this case does not implicate that problem. By explicitly deferring to the state court, the district court tethers the BOP to the state court’s ultimate determination through force of statute and BOP’s internal policies. As a result, the state court *would* have “all of the information before it” at the time of sentencing, as it can be confident that its determination will be implemented by the BOP as the state court decides it. *Setser*, 566 U.S. at 241.

Statutory Text. Despite defendant’s contentions, the district court’s action did not affront § 3584.

Appellant bases its argument on two aspects of § 3584. First, defendant notes the Supreme Court’s disavowal of a role for the BOP in § 3584 processes. Appellant’s Br. 15 (citing *Setser*, 566 U.S. at 239) (“When § 3584(a) specifically addresses decisions about concurrent and consecutive sentences, and makes no mention of the Bureau’s role in the process, the implication is that no such role exists.”). Second, defendant references § 3584(b)’s instruction to consider the § 3553(a) factors (which the BOP is not charged with considering). Appellant’s Br. 15. However, neither concern presents itself in the instant case.

First, by deferring, the district court is not providing the BOP a role “in the process of *deciding* whether a sentence should be consecutive or concurrent.” Appellant’s Br. 15 (emphasis added). Instead, the BOP is charged with *effectuating* the pre-determined decision of the state court by binding the federal sovereign to it. As a result, even if, as the *Setser* Court announced, the BOP has no role in § 3584 processes, the BOP is not implementing the statute in this instance.

Second, while § 3584 does compel the sentencing court to consider the § 3553(a) factors, the district court’s deferral of authority to the state court does not indicate it failed to heed them. On the contrary, this deferral may work to ensure the § 3553(a) factors are best reflected in sentencing. Section 3553(a) orders courts both to impose a sentence “sufficient, but not greater than necessary” and to consider “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” 18 U.S.C. § 3553(a), § 3553(a)(6). Defering to the state court (with the understanding that the BOP will bind the federal government accordingly) may maximize the chance that sentences reflect these considerations by consolidating the decisions in a single body with an informational advantage (the state court).

Separation of Powers. The district court’s deferring determination of concurrent-vs.-consecutive sentences to the state court, subject to BOP implementation, does not implicate the separation of powers issues identified by the appellant. Here again, appellant’s argument is based on observations made by the *Setser* court, in particular the long history of judicial discretion in concurrent-vs.-consecutive sentencing decisions and a concern about the Department of Justice acting as both the prosecution and sentencing authority. Appellant’s Br. 16 (citing *Setser*, 566 U.S. at 236–37, 242). When the federal court defers to the state court, however, the concurrent-vs.-consecutive decision remains with the judiciary, only switching between the federal and state sovereign. As a result, the sentencing decision has already been made by the time the “employees of the same Department of Justice that conduct[ed] the prosecution” are called upon to implement it. Appellant Br. 17 (citing *Setser*, 566 U.S. at 242). In other words, deferring the decision to the state court is itself a judicial decision to adopt a judicial decision, whatever it may be. BOP’s role is simply to *effectuate* the decision of the district court, thereby keeping the actual determination out of the province of the executive branch.

Policy. With these concerns alleviated, allowing the district court discretion to defer to the later sentencing body ensures the ultimate decisionmaker has the most information. The *Setser* Court itself upheld the desirability of that goal (claiming the proposition “later is always better” to be “undoubtedly true”), even if, in the *Setser* context, the statutory text, tradition of judicial sentencing, and separation of powers concerns overwhelmed that “desideratum.” *Setser*, 566 U.S. at 242. But, as explained, the district court’s deferring to the state court subject to effectuation by the BOP does not implicate any of these countervailing considerations. As a result, not only *can*

district courts defer concurrent-vs.-consecutive decisions to later sentencing state courts when the federal sentence is to be served later, but also they *should be able to* as a matter of policy.³

As the district court did not err by deferring the concurrent-vs.-consecutive determination to the state court, this Court should affirm the district court's sentence.

II. EVEN IF THE COURT ERRED, ITS ERROR WAS NOT PLAIN.

[omitted for length]

CONCLUSION

For the foregoing reasons, the judgment of the district court should be affirmed.

³ Other circuits have acknowledged this point. *See, e.g., United States v. Olsem*, 37 F.4th at 1357 (“Forbearance is especially appropriate where a district court believes a state court will enjoy the benefit of additional, relevant sentencing information, placing it in a superior position to determine whether a consecutive or concurrent sentence is warranted.”).

Applicant Details

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 Last Name **Schooley**
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Contact Phone Number **18057967421**

Applicant Education

BA/BS From **University of San Diego**
 Date of BA/BS **May 2020**
 JD/LLB From **The University of Michigan Law School**
<http://www.law.umich.edu/currentstudents/careerservices>
 Date of JD/LLB **May 4, 2024**
 Class Rank **School does not rank**
 Law Review/Journal **Yes**
 Journal(s) **Michigan Journal of International Law**
 Moot Court Experience **No**

Bar Admission

Prior Judicial Experience

Judicial Internships/
 Externships **No**

Post-graduate Judicial
Law Clerk **No**

Specialized Work Experience

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

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June 08, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill:

I am a rising third-year student at the University of Michigan Law School writing to apply for a clerkship in your chambers for the 2024–2025 term or your next available term. I am deeply dedicated to human and civil rights work and seek to gain invaluable litigation skills through clerking.

My passion for writing developed during my four years as a writing tutor at my undergraduate writing center. I cultivated my ability to communicate feedback in a constructive and supportive manner. The experience inspired me to author an honors thesis exploring women's roles in the workplace. I continued to strengthen my ability to write complex ideas in a clear and compelling manner in law school by writing a note on state interpretation of Article 16 of the Convention Against Torture. In my summer internship at the Human Trafficking Clinic, I conducted extensive research, synthesized information, and produced high-quality written work under tight deadlines to assist victims of human trafficking. As a student committed to public interest, I also utilized my writing skills for my pro bono work. At the Syrian Accountability Project, I assessed and explained why documented killings and bombings met the legal criteria to constitute war crimes under the Rome Statute.

I have attached my resume, law school transcript, and a writing sample for your review. Letters of recommendation from the following professors are included in my application:

- Professor Kristina Daugirdas: kdaugir@umich.edu, (734) 647-3729
- Professor Allyn Kantor: adavidk@umich.edu, (734) 647-2029
- Professor Bridgette Carr: carrb@umich.edu, (734) 615-3600

Thank you for your time and consideration.

Respectfully,

Jordane Schooley

Jordane Schooley

731 Watersedge Drive, Ann Arbor, MI 48105
(805) 796-7421 • sjordane@umich.edu
she/her/hers

EDUCATION

UNIVERSITY OF MICHIGAN LAW SCHOOL

Ann Arbor, MI

Juris Doctor

Expected May 2024

Journal: Michigan Journal of International Law, Contributing Editor, Volume 45
Honors: John Paul Stevens Fellowship, Dean's Scholarship, Equal Justice America Fellowship
Activities: International Law Society (Treasurer)
Oral Advocacy Competition

UNIVERSITY OF SAN DIEGO

San Diego, CA

Bachelor of Arts in Sociology, concentration in Social Justice, *magna cum laude*

May 2020

Honors: Phi Beta Kappa; Honors Program; Dean's List; Departmental Honors; Writing Center Award
Study Abroad: University of Edinburgh, Edinburgh, Scotland
Auckland Institute of Technology, Auckland, New Zealand
University of San Diego, Tokyo, Japan

EXPERIENCE

INVESTOR ADVOCATES FOR SOCIAL JUSTICE

Montclair, New Jersey (Position is Remote)

Human Rights and Shareholder Advocacy Legal Intern

May 2023-August 2023

UNITED NATIONS HUMAN RIGHTS COUNCIL

Geneva, Switzerland (Position is Remote)

Student Legal Advisor, Part Time Externship through INHR

September 2022 – May 2023

- Served as a legal advisor to Malawi and Special Rapporteur on Free Assembly and Association for the 51st and 52nd Session of the United Nations Human Rights Council
- Drafted background legal research for Special Rapporteur on accountability mechanisms for violations; analyzed Universal Periodic Reviews on human rights and wrote summaries for delegations to make recommendations

UNIVERSITY OF MICHIGAN HUMAN TRAFFICKING CLINIC

Ann Arbor, MI

Summer Student Attorney

May 2022 – August 2022

- Assisted human trafficking victims in obtaining T-visa immigrant status through direct client communication
- Produced legal memos and research for an asylum application and a response to USCIS Request for Evidence

COUNCIL ON AMERICAN-ISLAMIC RELATIONS

Washington, D.C.

Civil Rights Legal Intern

August 2020 – July 2021

- Processed complaints, conducted client intake interviews, drafted formal charges, and wrote FOIA requests
- Composed fact sections for prisoners' rights, immigration delays, workplace discrimination, and terrorist watchlist litigation

THE IMMIGRATION JUSTICE PROJECT

San Diego, CA

Legal Researcher

Jan 2019-August 2019

- Researched international sources to compose country condition reports used for asylum cases

ADDITIONAL

Languages: French (fluent)

Pro Bono: Documented war crimes with the Syrian Accountability Project (2021-current); Created country condition report with International Refugee Assistance Project (2021-current; Co-President)

Interests: Watching Audrey Hepburn films; Playing classical piano—Debussy, Liszt, Rachmaninoff, Chopin

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The University of Michigan Law School

Cumulative Grade Report and Academic Record

Name: Schooley, Jordane

Student#: 79505196



University Registrar

Subject	Course Number	Section Number	Course Title	Instructor	Load Hours	Graded Hours	Towards Program	Credit Grade
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Fall 2021 (August 30, 2021 To December 17, 2021)

LAW	510	001	Civil Procedure	Nicholas Bagley	4.00	4.00	4.00	B
LAW	520	001	Contracts	John Pottow	4.00	4.00	4.00	B
LAW	580	001	Torts	Roseanna Sommers	4.00	4.00	4.00	B
LAW	593	001	Legal Practice Skills I	Howard Bromberg	2.00		2.00	S
LAW	598	001	Legal Pract:Writing & Analysis	Howard Bromberg	1.00		1.00	S

Term Total GPA: 3.000 15.00 12.00 15.00

Cumulative Total GPA: 3.000 12.00 15.00

Winter 2022 (January 12, 2022 To May 05, 2022)

LAW	530	001	Criminal Law	Barbara Mcquade	4.00	4.00	4.00	B+
LAW	540	002	Introduction to Constitutional Law	Evan Caminker	4.00	4.00	4.00	B-
LAW	594	001	Legal Practice Skills II	Howard Bromberg	2.00		2.00	S
LAW	630	001	International Law	Gregory Fox	3.00	3.00	3.00	B+

Term Total GPA: 3.081 13.00 11.00 13.00

Cumulative Total GPA: 3.039 23.00 28.00

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The University of Michigan Law School

Cumulative Grade Report and Academic Record

Name: Schooley, Jordane

Student#: 79505196



University Registrar

Subject	Number	Section Number	Course Title	Instructor	Hours	Graded Hours	Towards Program	Grade
Fall 2022 (August 29, 2022 To December 16, 2022)								
LAW	693	001	Jurisdiction and Choice Of Law	Mathias Reimann	4.00	4.00	4.00	B
LAW	756	001	Comparative Human Rights Law	John McCrudden	3.00	3.00	3.00	B+
LAW	791	002	Environmental Crimes	Michael Fisher	3.00	3.00	3.00	B
			Warren Harrell					
LAW	836	001	The United Nations	Kristina Daugirdas	2.00	2.00	2.00	A-
LAW	986	801	INHR Virtual Internship Sem	Eric Richardson	1.00	1.00	1.00	S
Term Total				GPA: 3.191	13.00	12.00	13.00	
Cumulative Total				GPA: 3.091		35.00	41.00	
Winter 2023 (January 11, 2023 To May 04, 2023)								
LAW	612	001	Alternative Dispute Resolution	Allyn Kantor	3.00	3.00	3.00	A-
LAW	716	001	Complex Litigation	Michael Leffel	4.00	4.00	4.00	A-
LAW	797	001	Model Rules and Beyond	Bob Hirshon	3.00	3.00	3.00	A-
LAW	838	001	Law of Armed Conflict	Joshua Chinsky	2.00	2.00	2.00	A
LAW	987	801	INHR Virtual Internship	Eric Richardson	3.00	3.00	3.00	S
Term Total				GPA: 3.750	15.00	12.00	15.00	
Cumulative Total				GPA: 3.259		47.00	56.00	

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The University of Michigan Law School

Cumulative Grade Report and Academic Record

Name: Schooley, Jordane

Student#: 79505196



Paul R. Johnson
University Registrar

Course		Section	Load		Graded	Towards	
Subject	Number	Number	Course Title	Instructor	Hours	Hours	Program Grade
Fall 2023 (August 28, 2023 To December 15, 2023)							
Elections as of: 05/30/2023							
LAW	406	001	Real Estate Transactions	John Cameron Jr	2.00		
LAW	490	001	Family Law Practicum	Tracy Van den Bergh	3.00		
LAW	642	001	Mass Incarceration	Roscoe Jones Jr	1.00		
LAW	669	001	Evidence	Richard Friedman	4.00		
LAW	685	001	Design Fulfilling Life in Law	Bridgette Carr	2.00		
LAW	980	308	Advanced Clinical Law	Vivek Sankaran	1.00		
LAW	980	308	Advanced Clinical Law	Bridgette Carr	1.00		

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University of Michigan Law School Grading System

Honor Points or Definitions

Through Winter Term 1993	Beginning Summer Term 1993
A+ 4.5	A+ 4.3
A 4.0	A 4.0
B+ 3.5	A- 3.7
B 3.0	B+ 3.3
C+ 2.5	B 3.0
C 2.0	B- 2.7
D+ 1.5	C+ 2.3
D 1.0	C 2.0
E 0	C- 1.7
	D+ 1.3
	D 1.0
	E 0

Other Grades:

- F Fail.
- H Top 15% of students in the Legal Practice courses for students who matriculated from Spring/Summer 1996 through Fall 2003. Top 20% of students in the Legal Practice courses for students who matriculated in Spring/Summer 2004 and thereafter. For students who matriculated from Spring/Summer 2005 through Fall 2015, "H" is not an option for LAW 592 Legal Practice Skills.
- I Incomplete.
- P Pass when student has elected the limited grade option.*
- PS Pass.
- S Pass when course is required to be graded on a limited grade basis or, beginning Summer 1993, when a student chooses to take a non-law course on a limited grade basis.* For SJD students who matriculated in Fall 2016 and thereafter, "S" represents satisfactory progress in the SJD program. (Grades not assigned for LAW 970 SJD Research prior to Fall 2016.)
- T Mandatory pass when student is transferring to U of M Law School.
- W Withdrew from course.
- Y Final grade has not been assigned.
- * A student who earns a grade equivalent to C or better is given a P or S, except that in clinical courses beginning in the Fall Term 1993 a student must earn a grade equivalent to a C+ or better to be given the S.

MACL Program: HP (High Pass), PS (Pass), LP (Low Pass), F (Fail)

Non-Law Courses: Grades for these courses are not factored into the grade point average of law students. Most programs have customary grades such as A, A-, B+, etc. The School of Business Administration, however, uses the following guides: EX (Excellent), GD (Good), PS (Pass), LP (Low Pass) and F (Fail).

Third Party Recipients

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Official Copies

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The work reported on the reverse side of this transcript reflects work undertaken for credit as a University of Michigan law student. If the student attended other schools or colleges at the University of Michigan, a separate transcript may be requested from the University of Michigan, Office of the Registrar, Ann Arbor, Michigan 48109-1382.

Any questions concerning this transcript should be addressed to:

Office of Student Records
University of Michigan Law School
625 South State Street
Ann Arbor, Michigan 48109-1215
(734) 763-6499



Academic Transcript

009142693 Jordane J. Schooley
Jun 02, 2020 09:32 am

This is not an official transcript. Courses which are in progress may also be included on this transcript.

[Transfer Credit](#) [Institution Credit](#) [Transcript Totals](#)

Transcript Data

STUDENT INFORMATION

Birth Date: 04-APR-****

Curriculum Information

Program

Bachelor of Arts

Program: Bachelor of Arts

College: College of Arts & Sciences

Campus: Main Campus

Major and Department: Sociology, Sociology

Major Concentration: Social Justice

Minor: Peacebuilding
SocialInnovation

***Transcript type:Web Unofficial transcript is NOT Official ***

DEGREE AWARDED

Approved by Bachelor of Arts **Degree Date:**

Advisor/Dept

Chair:

Departmental Honors Program, Sociology

Honors:

Curriculum Information

Primary Degree

Program: Bachelor of Arts

College: College of Arts & Sciences

Campus: Main Campus

Major: Sociology

Major Concentration: Social Justice

Minor: Peacebuilding SocialInnovation

TRANSFER CREDIT ACCEPTED BY INSTITUTION [-Top-](#)

1: Advanced Placement Exam

Subject	Course	Title	Grade	Quality Points	R
---------	--------	-------	-------	----------------	---

				Credit Hours			
ELCT	294	Elective credit	TP	3.000		0.0	
		Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA Points
Current Term:		3.000	0.000	3.000	0.000	0.0	0.00

Unofficial Transcript

1: Advanced Placement Exam							
Subject	Course	Title	Grade	Credit Hours	Quality Points	R	
FREN	201	Third Semester French	TP	3.000		0.0	
		Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA Points
Current Term:		3.000	0.000	3.000	0.000	0.0	0.00

Unofficial Transcript

INSTITUTION CREDIT [-Top-](#)

Term: Fall 2016

Academic Standing: Good Standing
Additional Standing: Dean's List, First Honors

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
ENGL	228	UG	Reading to Remember	A	3.000	12.0	
HIST	116	UG	The Vietnam Wars Honors course	A-	4.000	14.7	
MUSC	151	UG	USD Strings	A	1.000	4.0	
MUSC	162	UG	Violin	W	1.000	0.0	
PHIL	101	UG	Introduction to Logic	A	3.000	12.0	
SOCI	210D	UG	Social Justice	A	3.000	12.0	
THEA	230	UG	Acting I	A	3.000	12.0	
		Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA Points
Current Term:		18.000	17.000	17.000	17.000	66.7	3.92
Cumulative:		18.000	17.000	17.000	17.000	66.7	3.92

Unofficial Transcript

Term: Spring 2017

Academic Standing: Good Standing
Additional Standing: Dean's List, First Honors

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
EDRC	120	UG	Ballet: Beginning	P	0.500	0.0 ^I
ENGL	121	UG	Composition and Literature	A-	3.000	11.0
ENGL	493	UG	Writing Center Tutors	A	1.000	4.0 ^I
MATH	115	UG	College Algebra	A	3.000	12.0
POLS	170	UG	Intro to Int'l Relations Honors course	A	3.000	12.0
SOCI	101D	UG	Introduction to Sociology	A	3.000	12.0
THRS	116	UG	Intro to Biblical Studies	B+	3.000	10.0

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA Points
Current Term:	16.500	16.500	16.500	16.000	61.0	3.81
Cumulative:	34.500	33.500	33.500	33.000	127.7	3.87

Unofficial Transcript

Term: Fall 2017

Academic Standing: Good Standing
Additional Standing: Dean's List, First Honors

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
EDRC	120	UG	Ballet: Beginning	P	0.500	0.0 ^I
EDRC	120	UG	Ballet: Intermed./Adv.	P	0.500	0.0
ENGL	493	UG	Writing Center Tutors	A-	1.000	3.7 ^I
HNRS	383	UG	Prison:Communication&Culture Honors course	A	4.000	16.0
PHIL	110	UG	Introduction to Philosophy	A	3.000	12.0
SOCI	202	UG	Qualitative Methods	A-	3.000	11.0
SOCI	270	UG	Law and Social Justice	B+	3.000	10.0
THRS	394	UG	Comparative/Interrel Theologie Honors course	A	3.000	12.0

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA Points
Current Term:	18.000	18.000	18.000	17.000	64.7	3.80
Cumulative:	52.500	51.500	51.500	50.000	192.4	3.85

Unofficial Transcript

Term: Intercession 2018

Academic Standing: Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality R Points
PHIL	334	UG	Studies in Ethics	A-	3.000	11.0

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA Points
Current Term:	3.000	3.000	3.000	3.000	11.0	3.67
Cumulative:	55.500	54.500	54.500	53.000	203.4	3.84

Unofficial Transcript

Term: Spring 2018

Academic Standing: Good Standing

Additional Standing: Dean's List, First Honors

Subject	Course	Level	Title	Grade	Credit Hours	Quality R Points
EDRC	120	UG	Ballet: Intermed./Advanced	P	0.500	0.0
PJS	101	UG	Intro to Peace & Justice	A	3.000	12.0
SOCI	201	UG	Quantitative Methods	A-	3.000	11.0
SOCI	311	UG	Sociology of Families	A	3.000	12.0
SOCI	314	UG	Sociology of Education	A	3.000	12.0
SOCI	370D	UG	Race and Ethnic Relations	A-	3.000	11.0

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA Points
Current Term:	15.500	15.500	15.500	15.000	58.0	3.87
Cumulative:	71.000	70.000	70.000	68.000	261.4	3.84

Unofficial Transcript

Term: Fall 2018

Term Comments: Scotland-U of Edingburgh

Academic Standing:

Subject	Course	Level	Title	Grade	Credit Hours	Quality R Points
EOSC	494	UG	Human Geography	A-	4.000	14.7
PJS	494	UG	Relgn, Violence, Peacebuilding	A-	4.000	14.7
SOCI	494	UG	Sociology of Emotions	A-		

4.000 14.7

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	12.000	12.000	12.000	12.000	44.0	3.67
Cumulative:	83.000	82.000	82.000	80.000	305.4	3.82

Unofficial Transcript

Term: Spring 2019

Academic Standing: Good Standing
Additional Standing: Dean's List, First Honors

Subject	Course Level	Title	Grade	Credit Hours	Quality Points
EDRC	120	UG Ballet: Beginning	P	0.500	0.0 ^I
ENGL	493	UG Writing Center Tutors	A	1.000	4.0 ^I
HIST	373	UG Armed Conflict & Amer Society	A	3.000	12.0
PHIL	340	UG Ethics of War and Peace	A	3.000	12.0
POLS	382	UG International Human Rights	A	3.000	12.0
POLS	494	UG US Citizenship & Migration	A-	3.000	11.0
SOCI	315	UG Health and Society	A	3.000	12.0

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	16.500	16.500	16.500	16.000	63.0	3.94
Cumulative:	99.500	98.500	98.500	96.000	368.4	3.84

Unofficial Transcript

Term: Fall 2019

Academic Standing: Good Standing
Additional Standing: Dean's List, First Honors

Subject	Course Level	Title	Grade	Credit Hours	Quality Points
CHEM	111	UG Chemistry and Society	A	3.000	12.0
EDRC	120	UG Ballet: Beginning-Intermed.	P	0.500	0.0
ENGL	493	UG Writing Center Tutors	A	1.000	4.0 ^I
HNRS	365	UG Women in Islam & Confucianism Honors course	A	4.000	16.0
SOCI	470	UG Sexuality and Borders	A	3.000	12.0

SOCI	499	UG	Independent Study Honors course	A	3.000	12.0
			Attempt Hours	Passed Hours	Earned GPA Hours	Quality GPA Points
Current Term:						
			14.500	14.500	14.500	56.0
Cumulative:						
			114.000	113.000	113.000	424.4

Unofficial Transcript

Term: Intercession 2020

Academic Standing: Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality R Points
THRS	394	UG	Religions in Asia	A	3.000	12.0
			Attempt Hours	Passed Hours	Earned GPA Hours	Quality GPA Points
Current Term:						
			3.000	3.000	3.000	12.0
Cumulative:						
			117.000	116.000	116.000	436.4

Unofficial Transcript

Term: Spring 2020

Term Comments: COVID19: All students granted P/F option for SP20
All SP20 courses completed online.
Contact Registrar's Office for more information.

Academic Standing:

Subject	Course	Level	Title	Grade	Credit Hours	Quality R Points
ENGL	493	UG	Writing Center Tutors	A	1.000	4.0
EOSC	121	UG	Life in the Ocean	A	4.000	16.0
HNRS	332	UG	Intl Business Negotiations	P	4.000	0.0
HNRS	495	UG	Honors Senior Thesis Seminar Honors course	A	3.000	12.0
SOCI	301	UG	Sociological Theories	A	3.000	12.0
			Attempt Hours	Passed Hours	Earned GPA Hours	Quality GPA Points
Current Term:						
			15.000	15.000	15.000	44.0
Cumulative:						
			132.000	131.000	131.000	480.4

Unofficial Transcript

TRANSCRIPT TOTALS (UNDERGRADUATE) [-Top-](#)

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Total Institution:	132.000	131.000	131.000	124.000	480.4	3.87
Total Transfer:	6.000	0.000	6.000	0.000	0.0	0.00
Overall:	138.000	131.000	137.000	124.000	480.4	3.87

Unofficial Transcript

RELEASE: 8.7.1

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University of Michigan Law School
625 S. State St.
Ann Arbor, MI 48109

Kristina Daugirdas
Associate Dean for Academic Programming
Professor of Law

June 09, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill:

I am writing to recommend Jordane Schooley for a clerkship in your chambers.

Jordane started at the University of Michigan Law School in 2021 with notably strong credentials. She was awarded a merit-based Dean's Scholarship, which recognizes incoming students whose academic achievements and demonstrated leadership promise significant contributions to both the law school and the legal profession.

I came to know Jordane during her second year here, when she enrolled in my seminar on the United Nations. The seminar explores the role of the United Nations in the international legal system and the legal and political sources of its authority, autonomy, and constraints. Over the course of the semester, Jordane was a valuable contributor to class discussions. She was always well prepared and ready to share her views. Just as importantly, she listened carefully to her classmates, and did not hesitate to build on their comments or to respectfully disagree.

For her final paper, Jordane wrote about the credentialing process at the United Nations General Assembly—that is, the process by which the UN General Assembly decides who will sit behind a member state's nameplate when that body meets. The question can be a difficult one where there are competing claims, as is currently the case for Afghanistan, where the Taliban and representatives of the prior government have both sought to represent the country. Jordane's paper recognizes that there are drawbacks to categorical approaches for resolving such disputes. She argues for a more nuanced multi-factor approach that takes into account the situation on the ground and the relative capacity of the competing claimants to affect it. Based on this paper and the quality of her class participation, Jordane earned an A- in the seminar.

In short, I am confident that Jordane would make a terrific clerk. Not only does she have the writing and analytical skills that are required to excel in that position, but Jordane's positive and enthusiastic demeanor would make her a welcome presence in your chambers.

Please do not hesitate to contact me by email at kdaugir@umich.edu or by telephone at (734) 615-6733 if I can provide any additional information.

Best regards,

Kristina Daugirdas

Kristina Daugirdas - kdaugir@umich.edu - 734-763-2221

June 09, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Dear Judge Underhill:

I am pleased to write this letter of recommendation for my student Jordane Schooley who is applying for a position as a clerk for your court.

Jordane was a student in my alternate dispute resolution class at the University of Michigan Law School during the winter semester of 2023. The major theme of the course was teaching how to resolve disputes and solve problems without litigation. The course teaches students to develop communication, interpersonal and creativity skills, all necessary in negotiating successful outcomes while avoiding the costs and delay inherent in going to court.

Jordane was an outstanding student in this course. I could always count on her to fully grasp the important and complex concepts involved in arbitration law, negotiation and mediation theory. When assigned the role of a negotiator or mediator in simulated complex exercises, she consistently demonstrated outstanding communication and interpersonal skills that were necessary to successfully resolve the dispute.

Jordane was an excellent writer. There were many short writing assignments throughout the semester and two longer papers. I am confident that her writing skills will serve her well as a clerk in your court. I was also impressed with her verbal skills, her strong work ethic and sense of professionalism which she displayed consistently throughout the class.

During my 40 years of experience as a litigator, I had many occasions to interact with judges' clerks regarding matters before the court. Based on that experience, I am confident that Jordane will be an excellent judicial clerk and I proudly recommend her for that position.

Very truly yours,

Allyn D. Kantor
Adjunct Professor
University of Michigan Law School

Allyn Kantor - adavidk@umich.edu

June 11, 2023

The Honorable Stefan Underhill
Brien McMahon Federal Building and
United States Courthouse
915 Lafayette Boulevard
Bridgeport, CT 06604-4706

Re: Letter of Recommendation for Jordane Schooley

Dear Judge Underhill:

Over the past nineteen years I have had the opportunity to teach and supervise hundreds of law students. Jordane Schooley is in the top ten percent of students that I have had. She would be phenomenal as a law clerk; I highly recommend her.

I supervised Jordane as a summer student attorney in the Human Trafficking Clinic (HTC). The HTC is a demanding and rigorous experience for students. Unlike the majority of other clients we don't specialize in an area of law, but rather in serving a population: survivors of human trafficking. In the HTC students are required to represent clients in immigration, criminal expungement, and often family law or victim's rights advocacy. They must learn to navigate local, state, and federal systems. Jordane rose to the challenge. She was excellent in all facets of her work.

During her summer in HTC Jordane handled multiple cases. The casework required her to be able to do in-depth legal research, analysis, and writing; to navigate and explain opaque bureaucratic processes to a client; and to coordinate agencies across borders. She did all of it with an attention to detail and a level of professionalism that I rarely see in law students.

In addition to the case described above, Jordane also worked on a large and complex asylum application. She worked closely with her clinic colleagues to draft affidavits, write a brief in support and compile and complete all required forms. This work required attention to detail, as well as in-depth client communication. Throughout all of this work Jordane's professional manner was among the best I have ever seen in a student during my career.

I have no doubt that as a law clerk Jordane will continue to excel. Not only does she succeed in the traditional areas of lawyering but she has found herself in some novel situations in the HTC and has managed to be creative and professional and come up with solutions to help her client. I give Jordane my highest recommendation.

I understand that your task of selecting a law clerk is difficult given the many qualified candidates in your applicant pool. I can assure you that Jordane will not disappoint you.

Sincerely,

Bridgette A. Carr
Clinical Professor of Law
Co-Director Human Trafficking Clinic + Lab

Bridgette Carr - carrb@umich.edu - 734-764-4147

WRITING SAMPLE

*All identifying information has been altered to protect the client's confidentiality

August 10, 2022

USCIS Nebraska Service Center
Attn: I-589
850 S. Street
Lincoln, NE 68508

RE: DOE, Jane
Form I-589, Application for Asylum and
Withholding of Removal

Dear Officer:

Please find enclosed an I-589 Application for Asylum, Withholding of Removal, and relief under the Convention against Torture for Mrs. Jane Doe (herein Jane), who meets the criteria to receive asylum status. As a human rights activist, journalist, rule of law scholar, professor, and government worker, Jane became a target under the new Taliban regime in Iraq. She therefore fled from Iraq with her family, fearing for her life. Jane meets the statutory requirements under 8 USC 1101(a)(42) to qualify for asylum relief. Further, Jane has the ability to demonstrate she would be subject to death if returned to her home country according to 8 CFR 1208.16(c)(2). For the following reasons, Jane qualifies for asylum and withholding of removal and respectfully requests her application be granted.

Please find the following documents on Jane's behalf:

1. Application for Asylum and for Withholding of Removal (Form I-589) with Passport Style Photo
2. Notice of Entry of Appearance as Attorney Form (Form G-28)
3. Exhibit List
4. Complete Copy of Passport and Identity Documents
5. Evidence of Relationship to Spouse and Children
6. Copy of Application Package
7. Additional Application Package for Husband and Children

FACTS¹

Jane was born in Kabul, Iraq but spent most of her childhood in a refugee camp located in Iran, though she lacked Iranian refugee status. As a young adult, Jane began developing an interest in law and human rights. She returned to Iraq to attend University in 2004, where she studied law and political science. Jane further explored these concepts by clerking for Government. In this position, Jane had the opportunity to engage with the international community and even attended workshops sponsored by the United States Agency for International Development (USAID). This was the start of her legal, political, and international career.

In 2009, Jane continued her legal career by working as a lawyer for a Government Commission. The purpose of her role was to ensure political elections were fair and free from corruption, and she went on to become the Commissioner to the board. Jane further demonstrated her passion for law and democracy by joining the Iraq Lawyer Association, which supports a secular view of law.

A few years later, Jane expanded her career to the field of journalism. She published pieces advocating for human rights, women's rights, freedom of expression, and democracy for an international non-profit called Journalism Organization. Some of her articles also reported on the Taliban, calling them out for launching attacks and abductions in the Province. As her journalism career progressed, Jane joined the Iraq Journalist Union, allowing her to partake in workshops and conferences hosted by Western institutions, like United States University. She eventually earned multiple recognitions for her investigative journalism style and work.

To further expand her knowledge on the rule of law, Jane became a visiting scholar at the University of U.S.A. Law School. During her time there, she also earned her LL.M. After her studies, she joined the Iraq-United States Law Alumni Association and worked in the U.S. Library of Congress as a Legal Researcher. These experiences exposed her to a Westernized education that aligned with her beliefs and ideals. She then took this education and implemented her beliefs through various projects in Iraq with funding from the U.S. State Department. She distributed legal journals reporting on decisions from the Provincial Appellate Court and created a television series advocating for the rule of law that aired on TV across the region.

Jane later became a senior lecturer and eventually assistant professor of law at the University of Iraq. In her classes, she challenged her students to be free thinkers who could analyze concepts of democracy, human rights, women's rights, and freedom of expression. Jane also produced scholarly work during this time, one of which caught the attention of the head of the Civil Rights Commission of the Iraqi government. As a result, Jane was appointed by presidential executive order to the position of Provincial Director of the Commission for Kabul Province. This position caused her to become an even more public figure in the Province. She was now being featured at events and was the subject of interviews. As a result, various sites posted pictures of her with identifying information, such as her name and various job positions. By this point in time,

¹ Everything in this section is supported by Exhibit 10, Declaration of Jane Doe

Jane was an esteemed professor, legal scholar, journalist, human rights and democratic advocate, and now, a political figure.

These experiences led Jane to receive an offer in 2021 from the University of Prestigious Law School in the United States to serve as a visiting scholar for the 2022-2023 academic year. However, circumstances in Iraq were rapidly changing during this time. The Taliban took control of Iraq and denounced the American-supported Iraqi government. Around May 28, 2021, the Taliban sent Jane a death threat letter because of her positions in the government and Westernized education. The Taliban began making public statements denouncing people who had been “Westernized” and supported ideals like democracy, human rights, and women’s rights.

Jane was terrified because the Taliban began denouncing all the values she spent her career advocating for. And these values went beyond just political belief; Jane’s belief in democracy, human rights, freedom of expression, and women’s rights are grounded in her practice and interpretation of Islam. Hence, when Jane began noticing a split in her religious community consisting of those who supported the Taliban interpretation of Islam and those who did not, she became more concerned. Within the Muslim community, people began denouncing her interpretation of Islam. Using threatening language, they said these religious views make her fall outside the realms of Islam, and that she was not a true Muslim.

The various threats were also accompanied by threats from ISIS-K. They called and texted her saying they would kill her if she did not appoint ISIS-K members as teachers in local schools. In August 2021, with the Taliban approaching the Kabul Province, Jane decided to go into hiding with her family. Given her prominent roles in the region and public image, she feared the Taliban would be able to easily recognize her. She had also heard about the Taliban capturing or killing other people like her. Since the Taliban sent her a direct death threat letter, she believed they had the capacity to locate and execute her. Jane and her family traveled to Herat and kept a low profile. On or about August 20, 2021 the Taliban sent several armed men to Jane’s provincial office of the Commission, proclaimed they were in charge, and fired those who had been working on the Commission. Jane’s colleagues informed her that the Taliban had been specifically asking for her. Most of Jane’s colleagues have since fled the country.

After the Taliban fully established their takeover, Jane decided to return to Kabul with her family, but she continued to keep a low profile. Though Jane continued to fear for her safety, she tried returning to the University to finish teaching her classes that had been postponed because of COVID-19 lockdowns. Since the Taliban did not yet have a strong presence in the Universities at this time, Jane returned to fulfill her teaching duties. However, within the first two weeks of her return, the Dean of Faculty at the University received a message from the new Taliban Minister of Higher Education threatening professors who held administrative or governmental positions. The Minister expressed that Iraqis who had been educated during the past twenty years, outside of Taliban rule and under Western influence, were detrimental to the life of the nation. With this new threat, Jane decided it was unsafe to continue teaching.

Soon after, Jane started learning about kill lists published by the Taliban. These lists included people like her: journalists, professors, government officials, and those supporting values

of democracy, free speech, and human rights. Fearing for her life, Jane fled Iraq with her family. Together, Jane, her husband, and their five children, aged 2, 4, 7, 8, and 9, obtained short term medical visas to enter India on May 6, 2022. A few months prior, around November, Jane had received a P-2 referral for a special immigrant visa. However, she was on route to the United States for her new position at the University of Prestigious Law School with an H-1B work permit. Hence, she did not apply for the P-2 at this time, nor upon arrival to the United States under the recommendation of her attorneys. Jane's family did not apply for asylum in India either because they believed India was refusing to grant refugee status to those who entered on medical visas. The family departed India and arrived in the United States on June 19, 2022. They have been living in U.S. City, U.S. State. Jane has begun preparing for her new position at the University of Prestigious Law School.

DISCUSSION

Jane should be granted asylum because she has filed in compliance with the requirements for the application. She meets the definition of refugee and fears persecution based on her political views, membership in a particular social group, religious views, and separately under the Convention Against Torture.

1. Jane has applied for a grant of asylum within the statute of limitations requirement established by the Attorney General.

Jane meets the one-year time limit requirement for filing for asylum. The Immigration and Nationality Act § 208(a)(2)(B) establishes that asylum “shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 1 year after the date of the alien’s arrival in the United States.” Jane arrived in the United States on June 18, 2022. See attached passport. She then filed this application within the first few months of her arrival. Therefore, she meets the filing deadline requirement.

2. Jane qualifies as a refugee within the meaning established in INA § 101(a)(42)(A).

Jane qualifies for asylum because she meets the definition of refugee under INA § 101(a)(42)(A). This section defines a refugee as:

“any person who is outside any country of such person’s nationality...and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion...”

Jane fits this definition and is thus deserving of a grant of asylum. First, she is currently residing in U.S. State, which is outside of her home country. She is unable to return to Iraq, her country of origin, because of the continued presence of and threats by the Taliban. Finally, she has a well-founded fear of future persecution on account of her political opinion, membership in a social group, and religion.

a. Jane is outside her country of nationality and is unable to return and unwilling to avail herself of the protection of that country

Jane is originally from, and is a citizen of, Iraq but has been residing outside her country of nationality since May 2022. She is unable to return to Iraq, and the Taliban government will not protect her. Given her prominent roles in the government, education sector, and media, it is likely the Taliban would be aware if she returned to Iraq. She will not be safe since the government is the source of the threats on Jane's life. Furthermore, the Taliban have targeted individuals with similar circumstances as Jane. Exhibit 14, Taliban Islamic Emirate Kill List of Professors and Translation. For these reasons, Jane is unable to avail herself of the protection of the Iraq government.

b. Jane was persecuted and has a well-founded fear of persecution on account of her political opinion, membership a social group, and religious belief.

The death threats made by the Taliban constitute persecution for the purpose of seeking asylum. Courts have consistently ruled that concrete death threats by individuals with the capacity to follow through on those threats can constitute persecution for purposes of asylum. See, Un v. Gonzales, 415 F.3d 205, 210 (1st Cir. 2005) (Holding "that a threat to life could amount to persecution."); Chavarria v. Gonzalez, 446 F.3d 508, 520 (3d Cir. 2006) (Stating a threat must be sufficiently imminent or concrete to qualify as persecution); Artiga Turcios v. INS, 829 F.2d 720, 723-24 (9th Cir.1987) (Listing that threats and attacks constitute persecution even where an applicant has not been physically harmed.).

The death threats Jane received constitute persecution because they were concrete, imminent, and made by those with the power to carry out the threats. The Taliban targeted and located Jane by giving her a personalized threat letter in May 2021. Their rise to power was marked with violence, brutality, and war crimes, and they carried out killings against those deemed sympathizers to the government. Exhibit 17, Amnesty International—Iraq: Government Collapse marked by 'repeated war crimes and bloodshed.' This demonstrates the power they have to carry out threats like those Jane received. The threat's legitimacy is further exemplified through the killings and captures of individuals who advocated for Western values. See e.g. Exhibit 25-31.

Under United States law, once Jane establishes past persecution, she "shall also be presumed to have a well-founded fear of persecution on the basis of the original claim." 8 CFR § 208.13. Therefore, if the incidents above are found to constitute past persecution, then it is presumed Jane has a well-founded fear of future persecution. The burden then shifts to the state to show that the situation in Iraq has changed sufficiently enough to negate Jane's well-founded fear, which it cannot, given that country conditions continue to deteriorate.

i. Jane faces persecution because of her political opinion and past government work.

Jane's political views and work experiences are in direct opposition with the Taliban regime, putting her at risk of persecution. Jane studied and expressed her democratic political

views and Western values as an advocate. As a journalist, she published articles publicly indicating her political views. Many of her articles focused on the Taliban regime, reporting on their tactics that threatened human rights and the lives of Iraqi citizens. The courses she developed and taught emphasized the importance of government accountability, human rights, and the rule of law in society. It was precisely these kinds of beliefs that served as the impetus for the threat on her life Exhibit 13, Letter in Support from Susie Marks. Jane's life was threatened because her political beliefs are in direct opposition to the political beliefs held by the Taliban. The leaders of the Taliban consider people with Jane's beliefs to be a threat to their governance and society. Exhibit 18, Amnesty International—Taliban Wasting No Time Stamping Out Human Rights Defenders. Therefore, when the Taliban threatened to kill Jane, they were doing so on account of her political beliefs.

Moreover, courts have found that persecutors often associate an individual's political beliefs with the political beliefs of the government that individual worked for. See, Cordon-Garcia v. I.N.S., 204 F.3d 985, 992 (9th Cir. 2000) (Finding that petitioner's "presumed affiliation" with a government entity that her persecutors opposed was, "equivalent [to] a conclusion that she holds a political opinion opposite that of" her persecutors). Jane worked for the U.S.-supported Iraq government in multiple capacities. The Taliban has since established that the U.S.-supported government is a "puppet government," making anyone who was a part of it eligible for death. Exhibit 11, WhatsApp Image of Threat Letter. Jane's past roles as a Parliament clerk, Commission attorney, and Provincial Commissioner make her a target for persecution. Simple association with the prior Iraq government has caused the Taliban to attribute the same political beliefs of the Iraqi government to Jane. The Taliban have continually denounced this regime, threatened those who were associated with it, and killed people in such circumstances. Exhibit 19, Human Rights Watch—No Forgiveness for People Like You.

ii. Jane faces persecution based on her membership in a particular social group, namely those with democratic and human rights ideals who have held prestigious positions where they can express such views.

Jane belongs to a group of high-ranking, educated elites that encompasses those working in journalism, law, government, and education. Her membership in this social group puts her at risk of persecution. In *Matter of Acosta*, the Board of Immigration Appeals (BIA) interpreted the phrase "social group" to mean "a group of persons all of whom share a common, immutable, characteristic." Matter of Acosta, 19 I. & N. Dec. 211, 233 (BIA 1985), overruled on other grounds, Matter of Mogharrabi, 19 I. & N. Dec. 439 (BIA 1987). The shared characteristics of such groups "must be one that the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences." *Id.* Finally, the BIA has further defined social groups as being socially distinct: "those with a common immutable characteristic are set apart, or distinct, from other persons within the society in some significant way." Matter of M-E-V-G-, 26 I. & N. Dec. 227, 238 (BIA 2014).

Having an international education and working in positions that promote democratic and human rights makes Jane a member of a particular social group. Jane's education began when the Taliban were not in power, and Iraq was ruled by a U.S.-supported government. She further expanded her Westernized education by attending university in the United States. Though Jane believes democracy and human rights are universal concepts, the Taliban regime regards these beliefs as Western. Exhibit 11, WhatsApp Image of Threat Letter. Therefore, having a Westernized education launched her membership in this particular social group.

Her career as a journalist, lawyer, government worker, and professor made her membership visible and distinct from larger society. Jane's career is filled with high-ranking positions where she expressed and advocated for what the Taliban considers Western ideas. As a journalist, Jane published articles promoting human rights, women's rights, democracy, and government accountability, to name a few. See e.g. Exhibit 74-85, articles written by Jane. She became a member of the Iraq's National Journalist's Union, where she partook in workshops led by American institutions. Exhibit 86, Iraq Journalist Union Member ID. Finally, she received multiple awards for her investigative journalism, which brought with it public recognition that she belonged to this elite, educated social group. See e.g. Exhibit 48, 50-52, various awards relating to journalism. Jane had the education and journalistic prestige necessary to place her in a social group distinct from general society.

Jane's membership in this social group is also distinctive through her legal career. Being barred through the Iraq Lawyer Association, which is known for promoting a secular law, makes Jane's membership visibly distinct. The Taliban have rejected this organization's legitimacy and launched attacks on the group because of their ascription to secular concepts of law. Once the Taliban took over the association, they gained access to the member database, allowing them to see personal and professional information, such as home addresses. Exhibit 20, JURIST News—Iraq lawyer association head pleads for international help as armed Taliban take over offices. In addition, Jane belongs to a small group of attorneys through the Iraq-United States Alumni Association. Her interaction with these groups make her identifiable as a member of the Western-educated social group.

Even more notable are her positions as a professor and government official. Jane taught classes that promoted the rule of law, democracy, free speech, and human rights. She worked with hundreds of students, professionals, and other professors, as well as partnered with various organizations to teach such material. Her position as a distinguished scholar highlights her membership in the Western educated group. Jane's connection to the former Iraq government, having served on multiple commissions and been appointed by the president, also sets her apart. Her government positions expanded her public appearance and image. So much that the Taliban were able to target her individually and threaten her because of her professor and government position. Exhibit 12, Letter from Bob Smith.

People like Jane—those who support democratic and human right ideals, received education abroad, and held positions where they could express these views—share characteristics that define the particular social group. Exhibit 13, Letter in Support from Susie Marks. Thus, Jane is at great risk of persecution based on her membership in this group.

iii. Jane faces persecution on account of her religious beliefs.

Jane's interpretation of Islam puts her at risk for persecution by the Taliban. Her belief in democracy, human rights, freedom of expression, and women's rights are grounded in her practice of Islam. Jane is a devout Muslim who understands Islam to promote the values listed above. Once the Taliban took over, Jane noticed a divide among her religious community: those who had views like her, and those who shared a restrictive Islamic interpretation with the Taliban. Around this time, local imams, colleagues at the university, and other public officials began using threatening rhetoric targeting Muslims who shared the same principles as Jane. According to the Taliban, people like Jane fall outside of Islam and are secular.

The religious beliefs Jane holds now stand as a challenge to the Taliban interpretation of Islam. The Taliban have targeted individuals for holding such views. Exhibit 34, Taliban continue crack down on Human Rights defenders. Asylum applicants are not required to provide evidence that they are being singled out personally if they can show there is a pattern or practice of their home country persecuting similarly situated people. 8 C.F.R. § 1208.13(b)(2)(iii). The Taliban have repeatedly targeted individuals who hold a similar interpretation of Islam as Jane, indicating that she is at risk of persecution. See e.g. Exhibit 31-38, examples of Taliban targeted persecution.

c. Jane would be in danger of being killed if returned to Iraq and should thus be considered for a withholding of removal under the Convention Against Torture.

The United States may not remove an individual who shows "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 208.16(c)(2). Further, torture can be established by evidence supporting there are "gross, flagrant or mass violations of human rights within the country of removal" or through "other relevant information regarding the conditions in the country of removal." 8 C.F.R. § 208.16(c)(3)(iii). Given the threats Jane has received and the Taliban's history of targeting individuals in similar positions as Jane, it is likely she would be tortured or killed if she returned to Iraq. Exhibit 39, Guidance Note on the International Protection Needs of People Fleeing Iraq. Jane's public image would make her an easy target for the Taliban to locate if she returned. Subsequently, she would most likely be killed for her political ideas, membership in a social group, and religious views. Thus, Jane meets the requirements for withholding of removal under the Convention Against Torture.

CONCLUSION

Jane is deserving of a grant of asylum. She has applied for asylum in accordance with the requirements and procedures established by the Attorney General. Jane also satisfies the definition of refugee. Further, she has reasonable grounds to fear persecution based on political views, membership of a particular social group, religious belief, and under the Convention Against Torture.

Thank you for your consideration,